

2025:PHHC:158407



209-2 **IN THE HIGH COURT OF PUNJAB AND HARYANA**
 AT CHANDIGARH

CRM-M-33232-2025
Date of Decision: 14.11.2025

Rahul alias Kalu and another ...Petitioners

Versus

State of Punjab ...Respondent

CORAM: HON'BLE MS. JUSTICE AARADHNA SAWHNEY

Present: Mr. Ashok Kumar Khunger, Advocate
for the petitioners.

Mr. Gautam Thapar, Sr. DAG, Punjab.

AARADHNA SAWHNEY, J. (ORAL)

1. Petitioners, accused in case FIR No.69 dated 20.05.2025 registered against him, under Sections 331(6)115(2)/324(2)/351(3)/190/191(3) of BNS, 2023, at Police Station City-2, Abohar, District Fazilka, has filed the present petition for grant of anticipatory bail under Section 482 of BNSS.

2. Relevant facts as emerging from the documents on record be noticed herein below:-

Monu, son of Bhagirath resident of Arya Nagar, Street No.01, Abohar, set the criminal law in motion by filing a complaint, pointing therein that at about 10:30 pm on 19.05.2025, he along with his brother Sonu was present in the house, when both the petitioners namely Kalu and Kabutar armed with swords, along with other accused, who were also armed with danda, kirpan and sword etc. barged inside his (c) house by breaking open the main gate and exhorted each others to unleash an attack. One of the accused namely Bintu gave danda blow to him (c), which hit him on his back. To save himself from the onslaught unleashed by the assailants, both

he and his younger brother Sonu locked themselves in another room, when assailants broke the household articles (cooler and fridge etc.) On alarm being raised, the neighbours started gathering at the spot, on seeing whom, the assailants fled away along with their respective weapons. Complainant also pointed out that at about 09:30 pm on 17.05.2025, Kalu (petitioner No.1) accompanied by Bintu, Rajat and Guni had assaulted Nisha, his brother's wife. A case was registered against the aforesaid four persons. On account of the same, they were nursing a grudge. Even on 19.05.2025, threats had been extended to them. With this backdrop he requested the police authorities to initiate the appropriate proceedings against them. On the basis of the said complaint, a formal case vide FIR No.69 dated 20.05.2025 u/s 331(6)/115(2)/324(2)/351(3)/190/191(3) of BNS, 2023, Police Station City-2, Abohar, District Fazilka, was registered and proceedings were set in motion.

3. Apprehending their arrest, the present petitioners moved an application for grant of anticipatory bail before the Ld. Additional Sessions Judge, Fazilka. The same was dismissed in terms of the order dated 29.05.2025. Aggrieved of which, the present petition has been filed.

4. Learned counsel for the petitioners contends that petitioners have been falsely implicated in the present case. In fact, the present FIR is a counter-blast to an earlier incident that had occurred at about 09:30 pm on 17.05.2025, when complainant Monu and his brother Sonu forcibly entered the house of Sunita, wife of Nanak Chand and assaulted them. With regard to the said incident, FIR No.72 dated 22.05.2025 was registered against complainant, u/s 331(6)/115(2)/305/324(2)351(3)/190/191(3) BNS, 2023, at Police Station City-2, Abohar, District Fazilka. Learned counsel further contends that complainant and his family members were nursing a grudge against the petitioners, who had sided up with Sunita (complainant of FIR No.72 dated 22.05.2025). It is also the submission of learned counsel that no specific injury has been attributed to

the petitioners, nothing is to be recovered from them. Precisely for these reasons, the concession of interim anticipatory bail was granted to the petitioners vide order dated 27.08.2025. The story now put forth by Investigating Officer that petitioners did not get recovery of the weapon allegedly used by them in the commission of offence, is purely an afterthought. Subsequent to the grant of concession of interim anticipatory bail, police authorities, who are also bearing grudge against petitioners have falsely arrayed them in yet another case FIR No.125 dated 19.09.2025 u/s 326/331(6)/115(2)/324(2)/351/190/191(3) of BNS, PS City-2, Abohar, District Fazilka. Based on these submissions, it has been urged that petitioners, who have joined the investigation and from whom nothing is to be recovered, be extended the concession of anticipatory bail.

5. *Per contra*, while opposing the petition, learned State counsel submits that petitioners along with their other accomplices, all of whom were armed, forcibly entered the house of the complainant and damaged the household articles, do not deserve any concession of pre-arrest bail. That apart, the fact that after the concession of interim bail was granted to them, another criminal case bearing FIR No.125 dated 19.09.2025, u/s 326/331(2)/115(2)/324(2)/351/190/191(3) of BNS, PS City-2, Abohar, District Fazilka, was registered against them at the instance of one Saroj wife of Jawahar Lal. Thus, it is clear that petitioners have misused the concession of interim anticipatory bail. Learned State counsel also contends that apart from these 02 cases, petitioners are also involved in another case bearing FIR No.28 dated 06.03.2025 u/s 74, 126(2)/351(3)/115(2)/191(3)/190 BNS, PS City-2, Abohar. Prayer for dismissal of the petition has been made.

6. I have heard learned counsel for the parties and carefully perused the documents on record.

7. Before expressing any opinion on the submissions raised by learned counsel of the parties, it would be appropriate to refer to certain judgments of Hon'ble the Supreme Court, wherein the factors to be kept in mind while dealing with an application for grant of anticipatory bail, have been discussed.

Hon'ble the Supreme Court in "***P. Chidambaram vs. Directorate of Enforcement, (2019) 9 SCC 24***", has observed as under:-

"Grant of anticipatory bail in exceptional cases"

69. Ordinarily, arrest is a part of procedure of the investigation to secure not only the presence of the accused but several other purposes. Power under Section 438 CrPC is an extraordinary power and the same has to be exercised sparingly. The privilege of the pre-arrest bail should be granted only in exceptional cases. The judicial discretion conferred upon the court has to be properly exercised after application of mind as to the nature and gravity of the accusation; possibility of the applicant fleeing justice and other factors to decide whether it is a fit case for grant of anticipatory bail....

70.

71. Article 21 of the Constitution of India states that no person shall be deprived of his life or personal liberty except according to procedure prescribed by law. However, the power conferred by Article 21 of the Constitution of India is not unfettered and is qualified by the later part of the Article i.e. "...except according to a procedure prescribed by law". In ***State of M.P. v. Ram Kishna Balothia [State of M.P. v. Ram Kishna Balothia, (1995) 3 SCC 221: 1995 SCC (Cri) 439]***, the Supreme Court held that the right of anticipatory bail is not a part of Article 21 of the Constitution of India and held as under: (SCC p. 226, para 7)

"7. ... We find it difficult to accept the contention that Section 438 of the Code of Criminal Procedure is an integral part of Article 21. In the first place, there was no provision similar to Section 438 in the old Criminal Procedure Code. The Law Commission in its 41st Report recommended introduction of a provision for grant of anticipatory bail. It observed:

‘We agree that this would be a useful advantage. Though we must add that it is in very exceptional cases that such power should be exercised.’ In the light of this recommendation, Section 438 was incorporated, for the first time, in the Criminal Procedure Code of 1973. Looking to the cautious recommendation of the Law Commission, the power to grant anticipatory bail is conferred only on a Court of Session or the High Court. Also, anticipatory bail cannot be granted as a matter of right. It is essentially a statutory right conferred long after the coming into force of the Constitution. It cannot be considered as an essential ingredient of Article 21 of the Constitution. And its non-application to a certain special category of offences cannot be considered as violative of Article 21. (emphasis supplied)

72. *We are conscious of the fact that the legislative intent behind the introduction of Section 438 CrPC is to safeguard the individual's personal liberty and to protect him from the possibility of being humiliated and from being subjected to unnecessary police custody. However, the court must also keep in view that a criminal offence is not just an offence against an individual, rather the larger societal interest is at stake. Therefore, a delicate balance is required to be established between the two rights—safeguarding the personal liberty of an individual and the societal interest. It cannot be said that refusal to grant anticipatory bail would amount to denial of the rights conferred upon the appellant under Article 21 of the Constitution of India.*

73. to 76.....

77. *After referring to Siddharam Satlingappa Mhetre [Siddharam Satlingappa Mhetre v. State of Maharashtra, (2011) 1 SCC 694 : (2011) 1 SCC (Cri) 514] and other judgments and observing that anticipatory bail can be granted only in exceptional circumstances, in [Jai Prakash Singh v. State of Bihar, (2012) 4 SCC 379: (2012) 2 SCC (Cri) 468], the Supreme Court held as under: (SCC p. 386, para 19)*

“19. Parameters for grant of anticipatory bail in a serious offence are required to be satisfied and further while granting such relief, the court must record the reasons therefor. Anticipatory bail can be granted only in exceptional circumstances where the court is prima facie of the view that the applicant has falsely been enroled in the crime and would not misuse his liberty. (See [D.K. Ganesh Babu v. P.T. Manokaran (2007) 4 SCC 434: (2007) 2 SCC (Cri) 345], [State

of Maharashtra v. Mohd. Sajid Husain Mohd. S. Husain (2008) 1 SCC 213: (2008) 1 SCC (Cri) 176] and [Union of India v. Padam Narain Aggarwal, (2008) 13 SCC 305: (2009) 1 SCC (Cri) 1].)”

In *Nikita Jagganath Shetty @ Nikita Vishwajeet Jadhav vs. The State of Maharashtra and another*, 2025 AIR SC 3375, the Hon'ble Supreme Court held that *"Anticipatory bail is an exceptional remedy and ought not to be granted in a routine manner."*

Hon'ble Supreme Court in plethora of judicial precedents including *Gurbaksh Singh v. State of Punjab*, AIR 1980 SC 1632, has time and again reiterated that while considering the anticipatory bail the Court is to take into consideration the facts like gravity of offence, chances of accused tampering with the evidence and probabilities of his fleeing from justice etc. Court should be circumspect about the impact of its decision on the society as well. The anticipatory bail is an extraordinary discretion which should be exercised in the extraordinary circumstances.

8. Facts leading to the lodging of the FIR have already been noticed in para 2 of this order. Allegations against the petitioners are that they along with their other accomplices, all of whom were armed, forcibly barged inside the house of the complainant after breaking upon the main gate and damaged the household articles. Status reports dated 08.08.2025 and 24.09.2025 already filed by way of affidavit of Mr. Sukhwinder Singh Brar, PPS, Deputy Superintendent of Police, Sub-Division Abohar, District Fazilka, have been carefully perused. In the status report dated 08.08.2025, it has been mentioned that petitioners are involved in another case bearing FIR No.28 dated 06.03.2025 u/s 74, 126(2)/351(3)/115(2)/191(3)/190 BNS, PS City-2, Abohar. Though an argument has been put forth by learned counsel for the petitioner that present FIR No.69 dated 20.05.2025 u/s 331(6)/115(2)/ 324(2)/351(3)/190/

191(3) of BNS, 2023, P.S. City-2, Abohar, District Fazilka, registered against the petitioner, is a counter-blast to the earlier FIR registered at his instance against the complainant and others but facts speak otherwise. Referred FIR against petitioner pertains to 22.05.2025 i.e. later to present FIR. Most importantly, the fact that after the concession of interim anticipatory bail was granted to the petitioner, he misused the same and was involved in another incident of assault in FIR No.125 dated 19.09.2025 u/s 326/331(2)/115(2)/ 324(2)/351/190/191(3) of BNS, PS City-2, Abohar, District Fazilka, disentitles petitioner for grant of relief sought for.

9. Resultantly, in view of the discussion made hereinabove, the Court is of the opinion that petitioners have not been able to make out a case of exceptional depravity/hardship in their favour, entitling them for the grant of this extra ordinary relief of pre-arrest bail.

10. The petition being devoid of merit, is hereby dismissed.

14.11.2025
Parveen kumar

(AARADHNA SAWHNEY)
JUDGE

Whether speaking/reasoned :Yes/No
Whether reportable :Yes/No