

2025:PHHC:099530



IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

Sr. No.215

CRM-M-34855-2025 (O&M)

Date of decision: 4.8.2025

Shamsher Singh

..... Petitioner

VERSUS

State of Punjab

..... Respondent

CORAM: HON'BLE MS. JUSTICE KIRTI SINGH

Present: Mr. S.K. Dahiya, Advocate, for the petitioner.

Ms. Aakanksha Gupta, AAG, Punjab.

KIRTI SINGH, J. (Oral)

Apprehending arrest in FIR No.15 dated 25.03.2025, under Sections 333, 324(4), 74, 191(3), 190 & 351(3) of BNS, 2023 and Sections 25 & 27 of the Arms Act, registered at Police Station Chattiwind, Amritsar, the petitioner has preferred this petition under Section 482 of Bhartiya Nagarik Suraksha Sanhita, 2023 (BNSS, 2023) for grant of pre-arrest bail.

2 This Court, while issuing notice of motion on 7.7.2025, passed the following order was passed:-

“Apprehending arrest in FIR No.15 dated 25.03.2025, under Sections 333, 324(4), 74, 191(3), 190 & 351(3) of BNS, 2023 and Sections 25 & 27 of the Arms Act, registered at Police Station Chattiwind, Amritsar, the petitioner has preferred this petition under Section 482 of Bhartiya Nagarik Suraksha Sanhita, 2023 (BNSS, 2023) for grant of pre-arrest bail.

Learned counsel for the petitioner inter alia submits that the petitioner is a young boy aged 19 years who has been falsely implicated in the present case on the allegations that he along with co-accused entered the house of the complainant armed with deadly weapons. It is submitted that on the

contrary, it is the complainant side which attacked and even injured the complainant, and in support of his contentions, reliance is placed upon the MLR of the petitioner annexed at Annexure P2. He further submits that two similar placed co-accused have been granted the concession of anticipatory bail by the learned Addl. Sessions Judge, Amritsar (Annexure P9 & P10) while two other co-accused have been granted interim anticipatory bail by this Court vide orders dated 28.05.2025 passed in CRM-M-26993 & 27079 of 2025 (Annexures P4 & P5). Learned counsel submits that the petitioner is ready to join investigation and cooperate.

Notice of motion.

Served with an advance copy of the petition, Ms. Guramrit Kaur, DAG, Punjab, accepts notice on behalf of the respondent-State and opposed the petition. She submits that the case of the petitioner is not at parity with the other co-accused. No specific injury has been attributed to the co-accused, however, there are serious and specific allegations against the petitioner of forcefully entering and damaging the house of the complainant, firing gun-shots and also threatening the complainant.

Learned State counsel seeks time to file reply.

Adjourned to 04.08.2025.”

3 In compliance to the aforesaid order, learned State counsel has filed a short reply dated 3.8.2025, by way of an affidavit of Deputy Superintendent of Police, Sub-Division Attari, Amritsar (Rural) on behalf of respondent-State. The same is taken on record. While relying upon the status report, she submits that the petitioner, armed with a pistol, along with other co-accused after forming an unlawful assembly in furtherance of common intention, forcibly trespassed into the house of the complainant, outraged her modesty and tried to intimidate her, and even fired gun-shots in the air. It is submitted that parity with other accused in this case, who have been granted

the concession of anticipatory bail, cannot be sought since the allegations against them were not as specific as they are against the present petitioner. Recovery of the weapon used in the commission of the alleged offence by the petitioner (pistol) is yet to be effected. As per the serious allegations leveled against the petitioner, he is not entitled to concession of pre-arrest bail.

4 *Per contra*, learned counsel for the petitioner has reiterated the submissions made before this Court on 7.7.2025.

5. Heard the rival submissions made by learned counsel for the parties and perused the record.

6. In **Srikant Upadhyay and others vs. State of Bihar and another, 2024 (INSC) 202 (SC)**, Hon'ble Supreme Court held as under:

“It is thus obvious from the catena of decisions dealing with bail that even while clarifying that arrest should be the last option and it should be restricted to cases where arrest is imperative in the facts and circumstances of a case, the consistent view is that the grant of anticipatory bail shall be restricted to exceptional circumstances. In other words, the position is that the power to grant anticipatory bail under Section 438, Cr.P.C. is an exceptional power and should be exercised only in exceptional cases and not as a matter of course. Its object is to ensure that a person should not be harassed or humiliated in order to satisfy the grudge or personal vendetta of the complainant. (See the decision of this Court in HDFC Bank Ltd. v. J.J.Mannan & Anr. 2010 (1) SCC 679).

*Further, it was clearly observed in para No.24 of the judgment (supra) that “**though in many cases it was held that bail is said to be a rule, it cannot, by any stretch of***

imagination, be said that anticipatory bail is the rule. It cannot be the rule and the question of its grant should be left to the cautious and judicious discretion by the Court depending on the facts and circumstances of each case. While called upon to exercise the said power, the Court concerned has to be very cautious as the grant of interim protection or protection to the accused in serious cases may lead to miscarriage of justice and may hamper the investigation to a great extent as it may sometimes lead to tampering or distraction of the evidence. We shall not be understood to have held that the Court shall not pass an interim protection pending consideration of such application as the Section is destined to safeguard the freedom of an individual against unwarranted arrest and we say that such orders shall be passed in eminently fit cases. At any rate, when warrant of arrest or proclamation is issued, the applicant is not entitled to invoke the extraordinary power. Certainly, this will not deprive the power of the Court to grant pre-arrest bail in extreme, exceptional cases in the interest of justice. But then, person(s) continuously, defying orders and keep absconding is not entitled to such grant.”

7. In **Sushila Aggarwal v. State (NCT of Delhi) (2018) 7 SCC 731**, the Constitution Bench reaffirmed that when considering applications for anticipatory bail, Courts should consider factors such as the nature and gravity of the offences, the role attributed to the applicant, and the specific facts of the case.

8. The general rule, put tersely, may be of bail, no jail; however, a just exception may be taken where there are circumstances which might thwart the course of justice. The antecedents of the accused or the probability of the accused fleeing, intimidating witnesses or tampering with the evidence, inter alia, weigh in heavy before the Court when dealing with a petition for the grant of anticipatory bail.

9 *Prima facie*, there are serious and specific allegations leveled against the petitioner to the effect that he along with other co-accused, entered the house of the complainant, whereafter he misbehaved with the complainant and pushed her to the ground. The allegations of firing gun shots in the air and threatening to kill the complainant have also been made against the present petitioner. In view of the gravity of the alleged offence purported to have been committed by the petitioner, this Court is not inclined to grant the discretionary relief of anticipatory bail to him in the present case, wherein his custodial interrogation might be required to unearth the true dimension of the alleged occurrence.

10. Accordingly, the petition is dismissed.

Pending miscellaneous application(s), if any, also stands disposed of.

(KIRTI SINGH)
JUDGE

4.8.2025

Ramandeep Singh

Whether speaking / reasoned
Whether Reportable

Yes/No
Yes/No