

CRM-M-35307 of 2025 (O&M)

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**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

CRM-M-35307 of 2025 (O&M)

Date of decision 05.08.2025

Sukhdev Singh

.....Petitioner

Versus

State of Punjab

.....Respondent

CORAM: HON'BLE MR. JUSTICE NAMIT KUMAR

Present: - Mr. Harsh Vasu Gupta, Advocate, and
Mr. V.P.S. Mithewal, Advocate, for the petitioner.
Mr. Anup Singh, AAG, Punjab.
Mr. Shiv Kumar Sharma, Advocate,
for the complainant.

NAMIT KUMAR, J.

CRM-30475 of 2025

1. This application has been filed by the applicant-petitioner under Section 528 of the BNSS, 2023 for amendment of the headnote and prayer clause of the petition with regard to addition of Section 115(2) of the BNS, 2023.

2. Notice in the application.

3. Mr. Anup Singh, AAG, Punjab and Mr. Shiv Kumar Advocate accept notice on behalf of non-applicant-respondent-State and complainant and have no objection to the prayer made in the application.

4. Consequently, the application is allowed. Registry is directed to make necessary correction in the headnote and prayer clause of the petition.

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1. This petition has been filed by the petitioner under Section 482 of the Bharatiya Nagarik Suraksha Sanhita, 2023 seeking anticipatory bail in case FIR No.63 dated 28.06.2025 registered under Section 75(2) of the Bharatiya Nyaya Sanhita, 2023 and later on added Section 115(2) of the BNS 2023 at Police Station Ladhuwal, District Ludhiana.

2. Present FIR was lodged on the statement of Rxxx wherein she stated that on 26.06.2025, she along with her *jethani* Rxxx and *devrani* Rxxx had gone to village Burjman Kaur to attend the cremation of a relative. At about 3.30 p.m. they were returning home afoot and when they reached ahead of Gurudwara Sahib at village Burjman Kaur, then petitioner-Sukhdev Singh came from behind on motorcycle and after stopping the motorcycle, he asked them to sit on the motorcycle. Her *jethani* and *devrani* showed their inability to sit on motorcycle due to health problem and asked the complainant to sit on motorcycle. Thereafter, she sat on pillion seat of motorcycle of the petitioner and they started talking with each other. When petitioner put his weight on the complainant, then she stopped him by saying that she is his daughter and cannot handle such weight. Thereafter, the petitioner touched her chest and she asked him to stop the motorcycle but did not do so. In order to save her modesty, complainant jumped from the motorcycle. Then the petitioner stopped the motorcycle and asked her to sit on the motorcycle again on the pretext that he will not do such act

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again. However, by seeing a motorcycle coming from backside, petitioner fled away from the spot. Thereafter, the persons namely Parminder Kaur and her son Jashanpreet Singh, who were co-villagers of the complainant and were coming from backside on a motorcycle, picked up her and dropped at her home.

3. Learned counsel for the petitioner has contended that the petitioner is innocent and has been falsely implicated in the present case. He further contended that present FIR is nothing but a counterblast to the refusal by the petitioner to pay more money to the complainant than the agreed rent for planting poplar trees on her land, which the petitioner had been cultivating for the last five years. He further contended that the petitioner is not involved in any other case and his custodial interrogation is not necessary. He is ready and willing to join the investigation.

4. Per contra, learned State counsel, assisted by learned counsel for the complainant, has opposed the prayer for grant of anticipatory bail to the petitioner on the ground that petitioner is accused of attempt to outrage the modesty of the complainant. It was submitted that custodial interrogation of the petitioner is necessary and, therefore, he does not deserve the concession of anticipatory bail.

5. I have heard the learned counsel for the parties and perused the record.

6. Before adverting to the issues germane to the present petition, it is apposite to observe that the petitioner stands arraigned for

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offences punishable under Sections 75(2) and 115(2) of the BNS. Section 75(2) of the BNS encapsulates the legislative mandate to criminalise any form of assault or application of criminal force upon a woman, when such act is perpetrated with the intent to outrage, impair or violate her sense of modesty. The quintessential constituents of the offence under the provision are threefold:

- (a) that the person aggrieved must be a woman;
- (b) that the accused must have employed criminal force upon her person; and
- (c) that such criminal force must have been inflicted with the deliberate, conscious and unambiguous intent of violating, dishonouring or otherwise outraging her sense of modesty.

7. In ***Raju Pandurang Mohale v. State of Maharashtra and another, (2004)4 SCC 371***, the Hon'ble Supreme Court has observed that: -

“12. What constitutes an outrage to female modesty is nowhere defined. The essence of a woman's modesty is her sex. The culpable intention of the accused is the crux of the matter. The reaction of the woman is very relevant, but its absence is not always decisive. Modesty in this Section is an attribute associated with female human beings as a class. It is a virtue which attaches to a female owing to her sex. The act of pulling a woman, removing her saree, coupled with a request for sexual intercourse, is such as would be an outrage to the modesty of a woman; and knowledge, that modesty is likely to be outraged, is sufficient to constitute the offence without any deliberate intention having such outrage alone for its object. As indicated above, the word 'modesty' is not defined in

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Indian Penal Code. The Shorter Oxford Dictionary (Third Edn.) defines the word 'modesty' in relation to woman as follows : "Decorous in manner and conduct; not forward or lower; Shame-fast; Scrupulously chaste."

13. Modesty is defined as the quality of being modest; and in relation to woman, "womanly propriety of behaviour; scrupulous chastity of thought, speech and conduct." It is the reserve or sense of shame proceeding from instinctive aversion to impure or coarse suggestions. As observed by Justice Patterson in **Rex v. James Llyod, (1876)2 C&P 817**. In order to find the accused guilty of an assault with intent to commit a rape, court must be satisfied that the accused, when he laid hold of the prosecutrix, not only desired to gratify his passions upon her person but that he intended to so at all events, and notwithstanding any resistance on her part. The point of distinction between an offence of attempt to commit rape and to commit indecent assault is that there should be some action on the part of the accused which would show he was just going to have sexual connection with her.

14. Webster's Third New International Dictionary of the English Language defines modesty as "freedom from coarseness, indelicacy or indecency; a regard for propriety in dress, speech or conduct". In the Oxford English Dictionary (1933 Edn.), the meaning of the word 'modesty' is given as "womanly propriety of behaviour; scrupulous chastity of thought, speech and conduct (in man or woman); reserve or sense of shame proceeding from instinctive aversion to impure or coarse suggestions".

15. In **State of Punjab v. Major Singh (AIR 1967 Supreme Court 63)** a question arose whether a female

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*child of seven and a half months could be said to be possessed of 'modesty' which could be outraged. In answering the above question the majority view was that when any act done to or in the presence of a woman is clearly suggestive of sex according to the common notions of mankind that must fall within the mischief of Section 354 Indian Penal Code. Needless to say, the "common notions of mankind" referred to have to be gauged by contemporary societal standards. It was further observed in the said case that the essence of a woman's modesty is her sex and from her very birth she possesses the modesty which is the attribute of her sex. From the above dictionary meaning of 'modesty' and the interpretation given to that word by this Court in Major Singh's case (supra) the ultimate test for ascertaining whether modesty has been outraged is whether the action of the offender is such as could be perceived as one which is capable of shocking the sense of decency of a woman. The above position was noted in **Rupan Deol Bajaj (Mrs.) and Anr. v. Kanwar Pal Singh Gill and Anr. (1995(6) SCC 194) : 1995(3) RCR (Criminal) 700 (SC)**. When the above test is applied in the present case, keeping in view the total fact situation, the inevitable conclusion is that the acts of accused appellant and the concrete role he consistently played from the beginning proved combination of persons and minds as well and as such amounted to "outraging of her modesty" for it was an affront to the normal sense of feminine decency."*

8. As per law laid down by the Hon'ble Supreme Court in **State of Madhya Pradesh v. Pradeep Sharma (2014) 2 Supreme Court Cases 171**, power exercisable under Section 438 Cr.P.C. (now Section

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482 of the Bharatiya Nagrik Suraksha Sanhita, 2023) is somewhat extraordinary in character and it is to be exercised only in exceptional cases where it appears that the person may be falsely implicated or where there are reasonable grounds for holding that a person accused of an offence is not likely to otherwise misuse his/her liberty. Also in determining the parameters in granting anticipatory bail in cases of serious offences, the Hon'ble Supreme Court in ***Bhadresh Bipinbhai Seth v. State of Gujarat and another, (2016)1 SCC 152*** after analysing the entire law has observed as under: -

“23. xx xx xx xx xx

(a) The nature and gravity of the accusation and the exact role of the accused must be properly comprehended before arrest is made;

(b) The antecedents of the applicant including the fact as to whether the accused has previously undergone imprisonment on conviction by a court in respect of any cognizable offence;

(c) The possibility of the applicant to flee from justice;

(d) The possibility of the accused's likelihood to repeat similar or other offences;

(e) Where the accusations have been made only with the object of injuring or humiliating the applicant by arresting him or her;

(f) Impact of grant of anticipatory bail particularly in cases of large magnitude affecting a very large number of people;

(g) The courts must evaluate the entire available material against the accused very carefully. The court must also clearly comprehend the exact role of the accused in the

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case. The cases in which the accused is implicated with the help of Sections 34 and 149 of the Penal Code, 1860 the court should consider with even greater care and caution, because over implication in the cases is a matter of common knowledge and concern;

(h) While considering the prayer for grant of anticipatory bail, a balance has to be struck between two factors, namely, no prejudice should be caused to free, fair and full investigation, and there should be prevention of harassment, humiliation and unjustified detention of the accused;

(i) The Court should consider reasonable apprehension of tampering of the witness or apprehension of threat to the complainant;

(j) Frivolity in prosecution should always be considered and it is only the element of genuineness that shall have to be considered in the matter of grant of bail and in the event of there being some doubt as to the genuineness of the prosecution, in the normal course of events, the accused is entitled to an order of bail. xx xx xx”

9. Reliance can be placed upon the Hon’ble Supreme Court dictum passed in ***Prem Shankar Prasad v. The State of Bihar and another, 2021(4) RCR (CrL) 598*** and ***Anil Kumar Singh v. High Court of Judicature at Patna through its Registrar General and another, (2020)19 Supreme Court Cases 364*** whereby the Hon’ble Apex Court had denied the concession of anticipatory bail in view of the gravity of offences and the conduct of the petitioner.

10. Perusal of the record shows that after giving lift to the complainant on his motorcycle, petitioner leaned his body weight over

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the complainant. Despite her objections, the petitioner proceeded to inappropriately touch the complainant. When petitioner did not stop and continued to misbehave with the complainant, then the complainant in order to protect her dignity and modesty, jumped off the moving motorcycle. As per the medico-legal report, the complainant sustained three injuries on the right leg, abdomen and right arm.

11. This Court, after going through the facts and circumstances of the case as well as the material on record, *prima facie* finds that the contents of the FIR have been found to be corroborated in the initial phase of investigation, since in the FIR the complainant has specifically stated that “when she jumped off the moving motorcycle to save herself, she was picked up and dropped home by co-villagers namely Parminder Kaur, who is wife of Gurpreet Singh – Member Panchayat, and her son - Jashanpreet Singh, who were coming on a motorcycle at the time of incident” and the said statement has been found to be corroborated by the independent witnesses, as detailed in para no.5 of the status report, which reads as under:-

xxx**xxx****xxx**

5. That subsequent to the registration of the FIR, ASI Gurcharanjit Singh along with police officials proceeded to the spot of occurrence, where witnesses namely Parminder Kaur, Rani, Ramandeep Kaur, and Gurdeep Singh were found present and were joined in the investigation. All four witnesses reiterated the allegations, stating that the petitioner Sukhdev Singh had outraged the modesty of the complainant by forcibly touching her and

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demanded strict action against him. The Investigating Officer prepared the site pan of the place of occurrence.

xxx**xxx****xxx**

The conduct of the petitioner demonstrates a brazen disregard for the dignity and bodily autonomy of the complainant. Such acts strike at the very foundation of societal morality and the safety of women. The allegations levelled against the petitioner are serious in nature. Custodial interrogation of the petitioner may lead to the discovery of material facts relevant to the investigation. Curtailing his freedom is necessary at this stage in order to enable the investigation to proceed without hindrance and to protect potential witnesses at this stage.

12. Moreover, the petitioner has not been able to produce or bring on record any document or material, either before this Court or the Court below, to show his involvement or dealing of any kind *qua* taking the land of the complainant for plantation of the poplar trees etc. for consecutive five years, to strengthen and justify his submission of false entrapment in the FIR for other reasons, and therefore, this ground of the petitioner does not hold any water.

13. In view of the facts and circumstances of the case and on perusal of statements made by complainant, witnesses and also as per the MLR of complainant, it is observed that the allegations against the petitioner are grave and serious. In my view, the case is at the threshold and it cannot *prima facie* be said that petitioner has been falsely enrped. Also as per status report, it has been stated that the

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investigation is still in process and the petitioner herein is evading arrest by not joining the investigation. Thus, the chance of the petitioner escaping the procedure of law or threatening the complainant and independent witnesses who are co-villagers of the accused as well as the complainant, exists. Moreover, personal liberty does not extend to violating the bodily autonomy of others especially when it tramples upon the fundamental dignity of a woman. Hence, petitioner does not deserve the concession of anticipatory bail.

14. In view of the above, the present petition stands dismissed.

15. However, nothing stated hereinabove shall be construed as a final expression of opinion on the merits of the case.

05.08.2025
R.S.

(NAMIT KUMAR)
JUDGE

Whether speaking/reasoned	:	Yes/No
Whether Reportable	:	Yes/No