

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

2025:PHHC:099773



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CRM-M-36528-2025

Date of decision: 05.08.2025

Jitender @ Bhoja

....Petitioner

V/s

State of Haryana

....Respondent

CORAM: HON'BLE MR. JUSTICE SUMEET GOEL

Present: Mr. Bhisham Kumar Majoka Advocate for the petitioner.
Mr. Gurmeet Singh, AAG, Haryana.

SUMEET GOEL, J. (Oral)

1. Present petition has been filed under Section 482 of Bharatiya Nagarik Suraksha Sanhita, 2023 (hereinafter to be referred as 'the BNSS') for grant of pre-arrest/anticipatory bail to the petitioner in case bearing FIR No.59 dated 21.05.2025, registered for the offences punishable under Sections 115(2), 118(2), 126 (2) and 351(3) read with Section 3(5) of BNS, 2023 at Police Station Bhupani, District Faridabad.

2. The gravamen of the FIR in question reflects that on 21.05.2025, the complainant-Veerpal, resident of village Kanwara, Faridabad had filed a written complaint with SI Deshraj, which was addressed to the SHO, Police Station Bhupani, Faridabad, wherein it has been stated that on 29.04.2025, at about 06:30 P.M., the complainant came to know through his son namely Rohit that 10-12 boys had been beating his brother's son, namely, Manish. When the complainant reached on the spot, several persons were found present and they had been intervening in the

scuffle. The son of the complainant Rohit was also intervening in the scuffle. As per the version put forth by the complainant, the petitioner (herein) and one Prashant had given slaps and fist blows on the ear of his son, due to which he sustained several injuries. Then the complainant took his son to B.K. Hospital from where he was referred to Safdarjung Hospital, Delhi. In his complaint, the complainant further stated that the eardrum of Rohit got damaged in the said scuffle. He could not report the matter to the police because the respectable persons of the society had pressurized him to resolve the matter amicably. But the miscreants had started keeping grudge against them. On these set of allegations, instant FIR under Sections 115 (2), 118 (2), 126 (2) and 351 (3) read with Section 3 (5) of BNS was registered.

3. Learned counsel for the petitioner has iterated that the petitioner has been falsely implicated into the FIR in question, as he was not present at the place of occurrence. He has further argued that offence under Section 118 (2) is not made out against the accused. Learned counsel has further argued that the medical opinion of injured Rohit does not show that he had sustained injury of eardrum in the said incident. Learned counsel for the petitioner has further iterated that there is a delay of 22 days in registration of the FIR. Learned counsel for the petitioner has further iterated that the petitioner side had also preferred a complaint regarding the said incident but no FIR was registered against the persons of complainant side. Learned counsel asserts that the petitioner has a clean antecedent with no prior accusations. Learned counsel asserts that in the instant case, the FIR fails to include material facts regarding the conduct of the complainant party which further raised questions about its credibility and fairness. It is next

submitted by the learned counsel that no recovery is to be effected from the petitioner or at his instance. Moreover, the custodial interrogation should not be used as a punitive measure and is justified only when absolutely necessary for the recovery of material evidence. Furthermore, the petitioner is ready to join the investigation and hence no useful purpose would be served by sending him behind the bars. It is lastly submitted by the learned counsel that the present petition be allowed and the petitioner be granted the concession of the anticipatory bail.

4. *Per contra*, learned State counsel has opposed the grant of anticipatory bail to the petitioner by arguing that the offence committed by the petitioner is serious in nature. In the status report filed by the learned State counsel, it has been mentioned that the eardrum of the injured Rohit got damaged in the said scuffle and he also sustained several injuries. It has further been mentioned in the said status report that the complainant could not report the matter to the police because the respectable persons of the society had pressurized him to resolve the matter amicably, but the accused persons had started keeping grudge against them and due to this reason, the FIR was got registered after a delay of 22 days. Learned State counsel has iterated that the custodial interrogation of the petitioner is imperative for the purpose of effective and fair investigation, particularly in view of the fact that the weapon of offence is yet to be recovered from the petitioner. According to learned State counsel, in case the petitioner is granted the concession of pre-arrest, at this stage, it may impede the ongoing investigation, obstruct recovery and adversely effect the efforts to apprehend the remaining co-accused.

5. Learned counsel for the complainant has vociferously opposed the grant of anticipatory bail to the petitioner by raising submissions in tandem with the learned State counsel.
6. I have heard the learned counsel for the rival parties and have gone through the available record of the case.
7. It would be apposite to refer herein to a judgment of the Hon’ble Supreme Court titled as ***Kishor Vishwasrao Patil vs. Deepak Yashwant Patil and another*** passed in ***SLP(Crl) No.1125-2022***, relevant whereof reads as under:

“74. Ordinarily, arrest is a part of the process of the investigation intended to secure several purposes. There may be circumstances in which the accused may provide information leading to discovery of material facts and relevant information. Grant of anticipatory bail may hamper the investigation. Pre-arrest bail is to strike a balance between the individual's right to personal freedom and the right of the investigating agency to interrogate the accused as to the material so far collected and to collect more information which may lead to recovery of relevant information.

xxx	xxx	xxx	xxx
xxx	xxx	xxx	xxx

*75. Observing that the arrest is a part of the investigation intended to secure several purposes, in ***Adri Dharan Das v. State of W.B. [Adri Dharan Das v. State of W.B., (2005) 4 SCC 303 : 2005 SCC (Cri) 933]*** , it was held as under : (SCC p. 313, para 19)*

“19. Ordinarily, arrest is a part of the process of investigation intended to secure several purposes. The accused may have to be questioned in detail regarding various facets of motive, preparation, commission and aftermath of the crime and the connection of other persons, if any, in the crime. There may be circumstances in which the accused may provide information leading to discovery of material facts. It may be necessary to curtail his freedom in order to enable the investigation to proceed without hindrance and to protect witnesses and persons connected with the victim of the crime, to prevent his disappearance, to maintain law and order in the locality. For these or other reasons, arrest may become an inevitable part of the process of investigation. The legality of the proposed arrest cannot be gone into in an application under Section 438 of the Code. The

role of the investigator is well defined and the jurisdictional scope of interference by the court in the process of investigation is limited. The court ordinarily will not interfere with the investigation of a crime or with the arrest of the accused in a cognizable offence. An interim order restraining arrest, if passed while dealing with an application under Section 438 of the Code will amount to interference in the investigation, which cannot, at any rate, be done under Section 438 of the Code.”

76. In ***Siddharam Satlingappa Mhetre v. State of Maharashtra*** [***Siddharam Satlingappa Mhetre v. State of Maharashtra, (2011) 1 SCC 694 : (2011) 1 SCC (Cri) 514***], the Supreme Court laid down the factors and parameters to be considered while dealing with anticipatory bail. It was held that the nature and the gravity of the accusation and the exact role of the accused must be properly comprehended before arrest is made and that the court must evaluate the available material against the accused very carefully. It was also held that the court should also consider whether the accusations have been made only with the object of injuring or humiliating the applicant by arresting him or her.

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*** [***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*** [***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*** [***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*** [***Union of India v. Padam Narain Aggarwal, (2008) 13 SCC 305 : (2009) 1 SCC (Cri) 1***].)”*

Economic offences

78. Power under Section 438 CrPC being an extraordinary remedy, has to be exercised sparingly; more so, in cases of economic offences. Economic offences stand as a different class as they affect the economic fabric of the

society. In Directorate of Enforcement v. Ashok Kumar Jain [Directorate of Enforcement v. Ashok Kumar Jain, (1998) 2 SCC 105 : 1998 SCC (Cri) 510], it was held that in economic offences, the accused is not entitled to anticipatory bail.”

15. In Sushila Agrawal and others v. State (NCT of Delhi) and Another reported in (2020) 5 SCC 1, Constitution Bench of this Court held that while considering an application for grant of pre-arrest bail the Court has to consider the nature of the offence, the role of the person, the likelihood of his influencing the course of investigation, or tampering with evidence or likelihood of fleeing justice. The Court held:-

“92.4. Courts ought to be generally guided by considerations such as the nature and gravity of the offences, the role attributed to the applicant, and the facts of the case, while considering whether to grant anticipatory bail, or refuse it. Whether to grant or not is a matter of discretion; equally whether and if so, what kind of special conditions are to be imposed (or not imposed) are dependent on facts of the case, and subject to the discretion of the court.”

8. As per the case put forth in the FIR in question, indubitably, serious allegations have been levelled against the petitioner. As per the version put forth by the prosecution is that on 29.04.2025 the nephew of the complainant was beaten by some boys from the Harijan colony and then his son Rohit came there to mediate, but he was slapped on the ear by the petitioner (herein) and blood starting coming out from his ear. The petitioner (herein) has been specifically named in the FIR and specific injury has been attributed to him. The version put forth by the prosecution cannot be doubted or rejected straightway only on the ground that there is a delay of 22 days in registration of the FIR. The complainant has specifically mentioned in his complaint that the parties were taking time because the respectable person of the society were pressuring them to resolve the matter through compromise. Similarly, the prosecution case cannot be doubted merely because the police did not register an FIR on the complaint made by

petitioner's side. There is a strong *prima facie* case against the petitioner in present case, as he has been specifically named in the complaint. Learned counsel for the petitioner has failed to show that a false case is registered against the petitioner.

No cause *nay* plausible cause has been shown, at this stage, from which it can be deciphered that the petitioner has been falsely implicated into the present FIR. It goes without saying that in the instant case, the complainant has categorically stated that the petitioner along with co-accused and as part of an unlawful assembly, acted in furtherance of their common object to inflict multiple injuries upon the complainant party.

In the status report filed by the State, it has been mentioned that statements of witnesses were recorded. The MLRs of the injured Manish, Sohiti and Rohit were obtained. In the MLR of Manish, one injury was shown and in the MLR of Sohiti, three injuries were shown and similarly in the MLR of Rohit one injury on the left ear was shown and the doctor has opined that the same is grievous in nature, as he has sustained permanent profound hearing loss.

9. It is befitting to mention here that while considering a plea for grant of anticipatory bail, the Court has to equilibrate between safeguarding individual rights and protecting societal interest(s). The Court ought to reckon with the magnitude and nature of the offence; the role attributed to the accused; the need for fair and free investigation as also the deeper and wide impact of such alleged iniquities on the society. It is imperative that every person in the Society can expect an atmosphere free from foreboding & fear of any transgression. At this stage, there is no material on record to hold that *prima facie* case is not made out against the petitioner. The

material which has come on record and preliminary investigation, appear to be established a reasonable basis for the accusations. Thus, it is not appropriate to grant anticipatory bail to the petitioner, as it would necessarily cause impediment in effective investigation. In ***State v. Anil Sharma*** [***State v. Anil Sharma, (1997) 7 SCC 187 : 1997 SCC (Cri) 1039***], the Supreme Court held as under : (SCC p. 189, para 6)

“6. We find force in the submission of CBI that custodial interrogation is qualitatively more elicitation-oriented than questioning a suspect who is well-ensconced with a favourable order under Section 438 of the Code. In a case like this, effective interrogation of a suspected person is of tremendous advantage in disinterring many useful informations and also materials which would have been concealed. Success in such interrogation would elude if the suspected person knows that he is well protected and insulated by a pre-arrest bail order during the time he is interrogated. Very often interrogation in such a condition would reduce to a mere ritual. The argument that the custodial interrogation is fraught with the danger of the person being subjected to third-degree methods need not be countenanced, for, such an argument can be advanced by all accused in all criminal cases. The Court has to presume that responsible police officers would conduct themselves in a responsible manner and that those entrusted with the task of disinterring offences would not conduct themselves as offenders.”

9.1. In view of the gravity of the allegations, the specific role attributed to the petitioner, the serious nature of injuries sustained by the son of complainant, and the necessity of custodial interrogation for a fair and thorough investigation, this Court is of the considered opinion that the petitioner does not deserve the concession of anticipatory bail in the factual matrix of the case in hand. Moreover, custodial interrogation of the petitioner is necessary for an effective investigation & to unravel the truth. The petition is, thus, devoid of merits and is hereby dismissed.

10. Nothing said hereinabove shall be deemed to be an expression of opinion upon merits of the case/investigation.

11. Pending application(s), if any, shall also stand disposed off.

(SUMEET GOEL)
JUDGE

August 05, 2025
Naveen

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