

2025:PHHC:098466



219 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-37057-2025
Date of Decision:31.07.2025

Gursewak Singh

...Petitioner

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MR. JUSTICE RAJESH BHARDWAJ

Present: Mr. A.K. Khunger, Advocate
for the petitioner.

Ms. Simran Gorla, AAG, Punjab with
ASI, Balvir Singh.

RAJESH BHARDWAJ, J. (ORAL)

1. The petitioner has approached this Court by way of filing present petition under Section 482 of Bharatiya Nagarik Suraksha Sanhita, 2023 seeking anticipatory bail in FIR No.97 dated 18.09.2024 under Section 309(6) of BNS, registered at Police Station Bahavwala, District Fazilka.

2. Succinctly facts of the case are that the FIR had been lodged on the statement of the complainant Nand Lal @ Nandu. It had been alleged that he was working in the mobile shop under the name and style of Vishawkarma Radios and Telecom. On 14.09.2024, when he was going back from his shop to his village on motorcycle then at about 11:00 P.M. when he reached at the terminal falling near the field of one Jagdish Godara then all of sudden a young person, who was hiding in the bushes, came out and gave a blow of rod on his forehead. Resultantly, he fell down and the assailant removed his gold locket

from his neck and robbed him of currency notes of Rs.11,600/- from his left pocket and then he fled away from there. He was admitted to the hospital for the treatment. The request was made to take legal action against the accused person. On registration of the FIR, investigation commenced. During investigation, the supplementary statement of the complainant was recorded on 08.11.2024 (Annexure P-2) wherein the petitioner was named as an assailant. Apprehending arrest, the petitioner approached the Court of Ld. Judge, Special Court, Fazilka praying for grant of the bail, however, after hearing both the sides, the same had been declined by the Ld. Judge, Special Court, Fazilka vide its order dated 10.06.2025 (Annexure P-3). Hence, being aggrieved, the petitioner has approached this Court by way of filing the present petition under Section 482 of BNSS, 2023 for grant of anticipatory bail.

3. It has been vehemently contended by the learned counsel for the petitioner that the petitioner has been falsely and frivolously implicated in the present case. He submits that neither the petitioner was named in the FIR nor any role has been attributed to him. However, on due deliberation the petitioner has been implicated in the present case on the basis of the supplementary statement which had been recorded after a considerable time of the alleged occurrence. He submits that no *prima facie* case as alleged against the petitioner is made out and he is ready to join the investigation and hence, the petitioner deserves to be granted anticipatory bail.

4. Per contra, learned State counsel has vehemently opposed the submissions made by the counsel for the petitioner. He has filed the status report dated 29.07.2025 by way of affidavit of Mr. Tejinder Pal Singh, PPS, Deputy Superintendent of Police, Abohar (Rural), District Fazilka. He has drawn attention of this Court to para No.4(iii) (a) of the status report and

submitted that the complainant had suffered two injuries. The petitioner has been named in the supplementary statement made by the complainant, which was recorded vide DDR No.32 dated 08.11.2024. As per supplementary statement it was found that it was the petitioner, who had attacked on the complainant and robbed of his currency and locket. He submits that the petitioner is involved in one more case for the offence of similar nature i.e. FIR No.46 dated 09.02.2022 under Sections 392/394/397 of IPC and Section 25 of the Arms Act, 1959 registered at Police Station Elenabad, District Sirsa. He submits that the investigation is at the threshold.

5. After hearing learned counsel for the parties and perusing the available record, it is deciphered that the occurrence in the present case has taken place on 14.09.2024, the complainant was attacked with a rod, while he was returning his home. He was medico legally examined and suffered two injuries. During investigation, his supplementary statement has been recorded and petitioner has been named to be the assailant. The complainant has deposed that the petitioner used to visit his shop frequently. Gravity of the offence when the investigation is under progress cannot be ignored.

6. For the consideration of anticipatory bail, The statutory parameters are given under Section 482 (1) & (2) of BNSS which reads as under:-

482 “Direction for grant of bail to person apprehending arrest:

1. *When any person has reason to believe that he may be arrested on an accusation of having committed a non-bailable offence, he may apply to the High Court or the Court of Session for a direction under this section; and that Court may, if it thinks fit, direct that in the event of such arrest, he shall be released on bail.*
2. *When the High Court or the Court of Session makes a direction*

under sub-section (1), it may include such conditions in such directions in the light of the facts of the particular case, as it may think fit, including-

- (i) a condition that the person shall make himself available for interrogation by a police officer as and when required;*
- (ii) a condition that the person shall not, directly or indirectly, make any inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade him from disclosing such facts to the Court or to any police officer;*
- (iii) a condition that the person shall not leave India without the previous permission of the Court;*
- (iv) such other condition as may be imposed under sub-section (3) of section 480, as if the bail were granted under that section.”*

7. Hon'ble Supreme Court in State represented by ***CBI Vs. Anil Sharma, (1997) 7 SCC 187*** has held as under:-

“6. We find force in the submission of the CBI that custodial interrogation is qualitatively more elicitation oriented than questioning a suspect who is well ensconced with a favorable order under Section 438 of the code. In a case like this effective interrogation of suspected person is of tremendous advantage in disintering many useful informations and also materials which would have been concealed. Succession such interrogation would elude if the suspected person knows that he is well protected and insulated by a pre-arrest bail during the time he 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 task of disintering offences would not conduct themselves as offenders.”

8. Hon'ble Apex Court in plethora of judicial precedents including ***Gurbaksh Singh Sibbia Vs. 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 factors like gravity of offence, chances of accused

tampering with the evidence and probabilities of his fleeing from justice etc. The 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.

9. Weighing the facts of the case on the anvil of the law settled, it is apparent that the complicity of the petitioner has been prima facie established. The investigation is at its threshold. Thus, granting anticipatory bail to the petitioner at this stage would scuttle the ongoing investigation.

10. In view of the facts and circumstances of the present case, this Court is of the opinion that the petitioner does not qualify for exercising the extraordinary power by this Court in his favour. Resultantly, the petition being devoid of any merit is hereby dismissed.

11. Nothing said herein shall be construed as an expression of opinion on the merits of the case.

31.07.2025
Parveen kumar

(RAJESH BHARDWAJ)
JUDGE

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