

CRM-M-38391-2025 (O & M)

2025:PHHC:089411



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IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH
(110)

CRM-M-38391-2025 (O & M)

Date of decision:21.07.2025

Shubhash @ Subhash

..... Petitioner

V/s

State of Punjab

...Respondent

CORAM: HON'BLE MR. JUSTICE JASJIT SINGH BEDI

Present: Mr. Gaurav Datta, Advocate, for the petitioner.

Mr. Harkanwar Jeet Singh, AAG, Punjab.

JASJIT SINGH BEDI, J. (Oral)

The prayer in the present petition under Section 482 of BNSS is for the grant of anticipatory bail to the petitioner in case 226 dated 12.05.2025 under Sections 331(8), 326(f), 324, 351(2), 296 and 190 of BNS, 2023 registered at Police Station Zirakpur, SAS Nagar.

2. The present FIR came to be registered at the instance of Binder Singh and reads as under:-

Copy of Statement of Binder Singh son of Harmesh Chand resident of village Sanoliya, Police Station Ganda Kheri, now residing at House No. 312, Gobind Vihar, Baltana on rent. Aged about 40 years, mobile no. 98149-48470, stated that I am permanent resident of above said address and I have a running business namely Sai Marble and Glass House at Godown (warehouse) No. 68 at Bhabat Town. There were some mischievous youngsters standing in front of my shop, due to which my work often used to get disturbed. On 10.05.25, all



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these youngsters were standing in front of my shop and my goods truck was about to arrive. I asked them to leave my shop and all these youngsters left, while talking about teaching me a lesson, they raised their voices and threatened to kill me. After that, I got busy with my work. After all this these youngsters came to attack me again and ran away from the spot after vandalizing my motorcycle No. PB-39-K-8273 brand Hero Honda. Thereafter, I called on helpline no. 112, when the police reached the spot, all these youngsters ran away from the spot. After this at around 12:15 am at night, the worker who worked for me told me that smoke was coming out of his warehouse. On which I immediately left the house and saw that about 15-20 youngsters were coming out from my warehouse who were armed with weapons. Out of which 2 young boys were riding a black colored scooter No. PB-70-L-9680. After they left from there I called on helpline no 112 and went to see my warehouse, where I found that my warehouse had been set on fire and the goods in my warehouse, including marble and polish material, had been destroyed. Due to the fire, many transaction documents, my office alongwith furniture, compressor and electricity metre were also burnt. I can identify all these boys if they are brought before me. The reason behind these unknown boys entering my warehouse and destroyed my warehouse from inside is that they used to stand in front of my warehouse all day long and disturb my work, which I had stopped. Due to which they have caused me so much damage. Legal and strict action may kindly be taken against the accused persons. I have written a statement to you that I have read and heard the same it is correct. Sd/-Binder Singh, Attested/-

3. The learned counsel for the petitioner contends that the petitioner is not named in the FIR. In fact, he was not present at the spot. He came to be named in the disclosure statement of his co-accused and



thereafter, in a supplementary statement of the complainant. As the petitioner was ready and willing to joint the investigation, he was entitled to the concession of anticipatory bail.

4. The learned counsel for the State, on the other hand, contends that the petitioner was seen in the CCTV footage of the spot. Other than that he had been named in the disclosure statement of his co-accused as also in the supplementary statement of the complainant. As the offence was *prima facie* established, he was not entitled to the concession of anticipatory bail.

5. I have heard the learned counsel for the parties.

6. The Hon'ble Supreme Court in the case of '***Sumitha Pradeep Vs. Arun Kumar C.K. & Anr. 2022(4) RCR (Criminal) 977***', has held that merely because custodial interrogation was not required by itself could not be a ground to grant anticipatory bail. The first and the foremost thing the Court hearing the anticipatory bail application is to consider is the *prima facie* case against the accused. The relevant extract of the judgment is reproduced hereinbelow:-

"It may be true, as pointed out by learned counsel appearing for Respondent No.1, that charge-sheet has already been filed. It will be unfair to presume on our part that the Investigating Officer does not require Respondent No.1 for custodial interrogation for the purpose of further investigation.

Be that as it may, even assuming it a case where Respondent No.1 is not required for custodial interrogation, we are satisfied that the High Court ought not to have granted discretionary relief of anticipatory bail.

We are dealing with a matter wherein the original complainant (appellant herein) has come before this Court praying that the anticipatory bail granted by the High Court to



the accused should be cancelled. To put it in other words, the complainant says that the High Court wrongly exercised its discretion while granting anticipatory bail to the accused in a very serious crime like POCSO and, therefore, the order passed by the High Court granting anticipatory bail to the accused should be quashed and set aside. In many anticipatory bail matters, we have noticed one common argument being canvassed that no custodial interrogation is required and, therefore, anticipatory bail may be granted. There appears to be a serious misconception of law that if no case for custodial interrogation is made out by the prosecution, then that alone would be a good ground to grant anticipatory bail. Custodial interrogation can be one of the relevant aspects to be considered along with other grounds while deciding an application seeking anticipatory bail. There may be many cases in which the custodial interrogation of the accused may not be required, but that does not mean that the prima facie case against the accused should be ignored or overlooked and he should be granted anticipatory bail. The first and foremost thing that the court hearing an anticipatory bail application should consider is the prima facie case put up against the accused. Thereafter, the nature of the offence should be looked into along with the severity of the punishment. Custodial interrogation can be one of the grounds to decline custodial interrogation. However, even if custodial interrogation is not required or necessitated, by itself, cannot be a ground to grant anticipatory bail.”

7. In the instant case, from the investigation conducted so far, it is apparent that the petitioner was present at the spot and has committed the offences in question including arson etc. As the offences stand *prima facie* established and the investigation is to be taken to its logical conclusion, the



custodial interrogation of the petitioner is certainly required. Even otherwise, the petitioner has criminal antecedents and is an accused in FIR No.70 dated 11.06.2025 under Sections 115(3), 125(2), 351((2), 191(2) AND 190 of the BNS and Sections 25, 27-54-59 of the Arms Act, Police Station Maloya, Chandigarh, FIR No.194 dated 25.05.2024 under Section 25-54-59 of the Arms Act and FIR No.219 dated 29.04.2025 under Sections 137(2), 87 of the BNS, Police Station Zirakpur.

8. In view of the above, I find no merit in the present petition. Therefore, the same stands dismissed.

9. However, it is made clear that the observations made in this order are only for the purpose of deciding this bail application and the Trial Court is free to adjudicate upon the matter on the basis of the evidence lead before it uninfluenced by any such observations made.

(JASJIT SINGH BEDI)
JUDGE

July 21, 2025
sukhpreet

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