

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

2025:PHHC:107130



107

CRM-M-44277-2025

Date of decision: 18.08.2025

Tushar

....Petitioner

V/s

State of Punjab

....Respondent

CORAM: HON'BLE MR. JUSTICE SUMEET GOEL

Present: Mr. Ravi Malhotra, Advocate for the petitioner.

Mr. Gurpartap S. Bhullar, AAG, Punjab.

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.91 dated 07.04.2025, registered for the offences punishable under Sections 118(1), 190, 191(3) and 118(2) of BNS, 2023 at Police Station City Kapurthala, District Kapurthala.

2. The gravamen of the FIR in question reflects that the complainant in his statement stated that on 03.04.2025 at 09:15 p.m. the petitioner (herein) alongwith 8 unknown persons attacked him. In his complaint, the complainant further stated that the accused were armed with swords, iron rods, double edged swords (*Khanda*), *dattar* and the petitioner (herein) raised *lalkara* that the complainant-Gurjot Singh be taught a lesson being jealous of him. Thereafter, all of them attacked upon the complainant with swords, iron rods, *khandas* and *dattars* and then fled

away from the spot. The complainant suffered injuries on his wrist, right arm, fingers, left thigh, knee and bones were broken. The complainant has further stated that his friend Gurbinder Singh took him to Civil Hospital from where he was referred to Joshi Hospital. On these set of allegations, instant FIR under Sections Sections 118(1), 190, 191(3) and 118(2) of BNS, 2023 was registered.

3. Learned counsel for the petitioner has iterated that the petitioner has been falsely implicated into the FIR in question, as there is a delay of 4 days in lodging of the FIR and delay is not explained. Learned counsel has further argued that allegations levelled against the petitioner are baseless as no specific injury has been attributed to the petitioner. Learned counsel has further iterated that the injuries are manipulated and used the same to implicate the petitioner. Learned counsel asserts that the 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. 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. I have heard the learned counsel for the rival parties and have gone through the available record of the case.

6. 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.”

7. As per the case put forth in the FIR in question, indubitably, the complainant-Gurjot Singh had come to Gold Gym on 03.04.2025. After exercising there, he came out at 09:15 p.m and then the petitioner alongwith 8 unknown persons armed with swords, iron rods, double edged swords (*Khanda*) *dattar* (machete) was standing there. The petitioner raised *lalkara* and then all attacked upon the complainant with swords, iron rods, *khandas* and *dattars*. As per the MLR the complainant has suffered grievous injuries on his wrist, right arm, fingers, left thigh, knee and bones were broken.

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.

8. 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.”

- 8.1. 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.
9. Nothing said hereinabove shall be deemed to be an expression of opinion upon merits of the case/investigation.
10. Pending application(s), if any, shall also stand disposed off.

(SUMEET GOEL)
JUDGE

August 18, 2025
Naveen

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