

2025:PHHC:125247



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

**CRM-M-47232-2025
Date of Decision: 11.09.2025**

Lakhvir Singh alias Lakhveer Singh ...Petitioner

Versus

State of Punjab ...Respondent

CORAM: HON'BLE MS. JUSTICE AARADHNA SAWHNEY

Present: Mr. Gurmeet Singh Saini, Advocate
for the petitioner.

Mr. Gautam Thapar, Sr. DAG, Punjab.

AARADHNA SAWHNEY, J. (ORAL)

1. Petitioner, an accused in case FIR No.115 dated 05.07.2025 registered against him, under Sections 333/118(1)/115(2)/191(3)/190 of BNS, 2023 (Sections 332(B)/118(2) of BNS, 2023 added later on), at Police Station Badhni Kalan, District Moga, has filed the first petition for grant of anticipatory bail under Section 482 of BNSS.

2. Relevant facts as emerging from the documents on record be noticed herein below:-

*Sh. Avtar Singh, an electrician by profession, son of Darshan Singh, resident of Nathoke, District Moga, set the criminal law in motion by filing a complaint, pointing therein that he had been married to Sandeep Kaur daughter of Bhajan Singh, in 2016. They are blessed with a child, presently aged about 08 years. He has a sister Kamaldeep Kaur, who is married but has relations with **Lakhvir Singh** (petitioner) son of unknown, resident of Mudki, District Ferozepur. Further as per complainant, they have 03 acres*

of ancestral land at village Nathoke. He (c) was demanding his share from this land, but his sister wanted to sell the entire land, in connivance with their father. Thus, the relations between him and his family are not very cordial on this count. He, his wife and child are residing separately in village Burj Dunna at the house of his wife's paternal uncle for the last 03 years. On 03.07.2025, he and his wife Sandeep Kaur were going from their village Nathoke to village Burj Dunna, a Brezza car bearing registration No.HR-51/CH-1074 started following them and suddenly moved ahead and tried to stop them. Lakhvir Singh (P) was driving the Brezza car in which Kamaldeep Kaur (sister of the complainant), Darshan Singh (father of the complainant) and two unidentified persons were sitting. When he did not stop his motorcycle Lakhvir Singh rammed the car into his motorcycle, resultantly he and his wife fell down. Indicators and support rod of the motorcycle were broken but luckily he and his wife escaped unhurt. When people gathered at the spot, Lakhvir Singh fled away in the car. He and his wife were terrified and thus, immediately returned back home on motorcycle. After some time, the same Brezza car bearing registration No.HR-51/CH-1074 halted in front of their house. Lakhvir Singh (P) was holding sword in his hand, whereas two unidentified persons were armed with spade handle, all three entered their house. Without any verbal altercation, one of the unidentified persons exhorted others to teach him (complainant) and his wife a lesson of their lifetime. Within a split of a second, Lakhvir Singh (petitioner) raised the sword, when he (complainant) raised his alarm to save himself, resultantly, the blow hit him on his left hand. Unidentified persons accompanying Lakhvir Singh (petitioner) hit him (complainant) with a spade on his right thigh. When his wife Sandeep Kaur rushed to his rescue, the other unidentified persons gave her two spade blows, which hit her on right arm and right shoulder. Both he and his wife raised alarm, when people started gathering, the assailants ran away. Towards the end, complainant pointed out that his father Sh. Darshan Singh, sister Kamaldeep Kaur assisted assailants in pointing out/identifying his house to them. He also pointed out that motive behind the

incident is that he demanded his share out of his father's land. He requested the police authorities to catch hold of the assailants, as also to initiate appropriate proceedings against them. On the basis of the said complaint and medico-legal report, a formal case vide FIR No.115 dated 05.07.2025 under Sections 333/118(1)/115(2)/191(3)/190 of BNS, 2023 (Sections 332(B)/118(2) of BNS, 2023 added later on), Police Station Badhni Kalan, District Moga, was registered and proceedings were set in motion.

3. Apprehending his arrest, the present petitioner moved an application for grant of anticipatory bail before the Ld. Additional Sessions Judge, Moga. The same was dismissed in terms of the order dated 20.08.2025. Aggrieved of which, the present petition has been filed.

4. Learned counsel for the petitioner submits that petitioner being friend of complainant's father has been falsely implicated in the present case by complainant, who was not on cordial terms with his father and sister. In fact, complainant had been exerting pressure upon his father and sister to sell the agricultural land owned by the family, which was flatly refused by Sh. Darshan Singh (father of the complainant). Continuing further, learned counsel submits that incident did not occur in the manner as portrayed in the complaint. Moreover the father of the complainant namely Sh. Darshan Singh, who was arrested on 06.07.2025, has since been granted the concession of bail by the Ld. Additional Sessions Judge, Moga. Even Kamaldeep Kaur (sister of the complainant) has been granted concession of anticipatory bail.

Learned counsel further submits that in the facts mentioned above, the petitioner, who was merely accompanying the father and the sister of the complainant, deserves a lenient view to be taken in his favour. Moreover, even if the story as alleged by complainant is taken to be true at its face value (though not admitted), the only role attributed to him is that he had inflicted

two injuries on the person of the complainant, one of which has been declared 'Grievous'. Learned counsel sums up his submission by urging that petitioner is willing to join the investigation as and when called for.

5. Status report dated 10.09.2025 by way of affidavit of Mr. Anwar Ali, PPS, Deputy Superintendent of Police, Nihal Singh Wala, District Moga, has been filed. The same is taken on record.

Apart from mentioning factual aspects of the case, it has further been pointed out that presence of petitioner is needed for custodial interrogation to effect recovery of Brezza car, weapon used in the commission of offence as also to know the whereabouts of unidentified men accompanying him (petitioner) when all three barged inside the house of complainant and unleashed an attack. Dismissal of the petition was prayed for.

6. I have heard learned counsel for the parties and carefully perused the documents on record.

7. Before expressing any opinion on the submissions raised by learned counsel of the parties, it would be appropriate to refer to certain judgments of Hon'ble the Supreme Court, wherein the factors to be kept in mind while dealing with an application for grant of anticipatory bail, have been discussed.

Hon'ble the Supreme Court in "***P. Chidambaram vs. Directorate of Enforcement, (2019) 9 SCC 24***", has observed as under:-

"Grant of anticipatory bail in exceptional cases"

69. Ordinarily, arrest is a part of procedure of the investigation to secure not only the presence of the accused but several other purposes. Power under Section 438 CrPC is an extraordinary power and the same has to be exercised sparingly. The privilege of the pre-arrest bail should be granted only in exceptional cases. The judicial discretion conferred upon the court has to be properly exercised after application

of mind as to the nature and gravity of the accusation; possibility of the applicant fleeing justice and other factors to decide whether it is a fit case for grant of anticipatory bail....

70.

71. Article 21 of the Constitution of India states that no person shall be deprived of his life or personal liberty except according to procedure prescribed by law. However, the power conferred by Article 21 of the Constitution of India is not unfettered and is qualified by the later part of the Article i.e. "...except according to a procedure prescribed by law". In **State of M.P. v. Ram Kishna Balothia [State of M.P. v. Ram Kishna Balothia, (1995) 3 SCC 221: 1995 SCC (Cri) 439]**, the Supreme Court held that the right of anticipatory bail is not a part of Article 21 of the Constitution of India and held as under: (SCC p. 226, para 7)

"7. ... We find it difficult to accept the contention that Section 438 of the Code of Criminal Procedure is an integral part of Article 21. In the first place, there was no provision similar to Section 438 in the old Criminal Procedure Code. The Law Commission in its 41st Report recommended introduction of a provision for grant of anticipatory bail. It observed:

'We agree that this would be a useful advantage. Though we must add that it is in very exceptional cases that such power should be exercised.' In the light of this recommendation, Section 438 was incorporated, for the first time, in the Criminal Procedure Code of 1973. Looking to the cautious recommendation of the Law Commission, the power to grant anticipatory bail is conferred only on a Court of Session or the High Court. Also, anticipatory bail cannot be granted as a matter of right. It is essentially a statutory right conferred long after the coming into force of the Constitution. It cannot be considered as an essential ingredient of Article 21 of the Constitution. And its non-application to a certain special category of offences cannot be considered as violative of Article 21. (emphasis supplied)

72. We are conscious of the fact that the legislative intent behind the introduction of Section 438 CrPC is to safeguard the individual's personal liberty and to protect him from the possibility of being humiliated and from being subjected to unnecessary police custody. However, the court must also keep in view that a criminal offence is not just an offence against an individual, rather the larger societal interest

is at stake. Therefore, a delicate balance is required to be established between the two rights—safeguarding the personal liberty of an individual and the societal interest. It cannot be said that refusal to grant anticipatory bail would amount to denial of the rights conferred upon the appellant under Article 21 of the Constitution of India.

73. to 76.....

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, (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 enroped in the crime and would not misuse his liberty. (See **[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 (2008) 1 SCC 213: (2008) 1 SCC (Cri) 176]** and **[Union of India v. Padam Narain Aggarwal, (2008) 13 SCC 305: (2009) 1 SCC (Cri) 1].)**”

7. Reverting back to the case in hand, facts leading to the lodging of the FIR have already been noticed in para 2 of this order. It is apparent that the incident occurred in two phases. In the initial phase, petitioner intentionally rammed the Brezza car bearing registration No.HR-51/CH-1074 into the motorcycle being driven by complainant, on which his wife was riding pillion. Both of them fell down and as people started gathering, petitioner sped away from the site. Shockingly enough, after few hours, on the same day petitioner along with certain unidentified persons barged inside the house of the complainant and without any exchange of hot words, unleashed an attack upon him (complainant) and his wife. At that point of time, the petitioner was armed

with ‘sword’ and inflicted two injuries on the person of the complainant, one of such injury on the left hand of complainant was declared as ‘Grievous’ in nature. As has been rightly pointed out by learned State counsel that presence of the petitioner is needed for custodial interrogation to effect the recovery of weapon, Brezza car used by him in the commission of the offence, as also to know the identification details of other unidentified persons, who were accompanying him and had also assaulted complainant and his wife.

8. Resultantly, in view of the discussion made hereinabove, the Court is of the opinion that petitioner has not been able to make out a case of exceptional depravity/hardship in his favour, entitling him for the grant of this extra ordinary relief of pre-arrest bail.

9. The petition being devoid of merit, is hereby dismissed.

11.09.2025
Parveen kumar

(AARADHNA SAWHNEY)
JUDGE

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