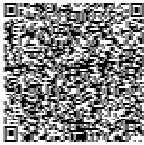


2025:PHHC:117326



103 (2 cases)

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

Date of decision: September 01, 2025
CRM-M-47284-2025

1.

Joga Singh

....Petitioner

versus

State of Punjab

....Respondent

2.

CRM-M-47337-2025

Sukhdev Singh

....Petitioner

versus

State of Punjab

....Respondent

CORAM: HON'BLE MR. JUSTICE SUMEET GOEL

Present: Mr. Hakam Singh, Advocate and
Mr. Ajay Singh Virk, Advocate for the petitioner(s).

Mr. Gurpartap S. Bhullar, AAG Punjab.

Mr. Namit Sharma, Advocate for the complainant.

SUMEET GOEL, J. (ORAL)

1. By this common order, the aforesaid two petitions are being disposed of, as they emanate from a common FIR.

For brevity, the facts are being taken from CRM-M-47284-2025.

2. Present petition has been filed under Section 482 of the Bhartiya Nagarik Suraksha Sanhita, 2023 (for short 'BNSS') for grant of

concession of anticipatory bail to the petitioner in case FIR No.150 dated 15.06.2025, under Sections 333, 118(1), 115(2), 191(3), 190, 351(2), 329(3) and 62 of the Bharatiya Nyaya Sanhita, 2023 (for short 'BNS') (Sections 117(2), 118(2) of BNS added later on vide rapat No.035 dated 21.06.2025), registered at Police Station City Tarn Taran, District Tarn Taran.

3. The gravamen of the FIR in question reflects that the present case was registered on the basis of a statement made by Jagroop Singh (complainant) to the effect that he was having one registered plot of 28 marlas, situated at the main road of Bale Chak. On 05.05.2025, Sawinder Singh, Dilbagh Singh sons of Hari Singh, Sukhdev Singh (**petitioner in CRM-M-47337-2025**), Balwinder Singh sons of Sawinder Singh and Joga Singh (**petitioner in CRM-M-47284-2025**) son of Dilbagh Singh, all residents of Bale Chak had tried to take illegal possession of his above said plot. In this respect, the complainant had moved a complaint and consequently, the matter got compromised between them on the agreement that till the decision of the ownership of the said plot, none of the parties will raise construction on it. However, on 15.06.2025 at about 05.30 a.m., when the complainant woke up in the morning, he saw that above named accused persons were constructing wall over his said plot and when they were tried to be stopped for doing so, the accused persons started pelting stones upon him. In order to save his life, the complainant rushed towards his house, but all the accused persons chased him and forcibly entered into his house. Accused Sukhdev Singh (**petitioner in CRM-M-47337-2025**) and Balwinder Singh were armed with sickle (*datar*), Sawinder Singh was armed with spade (*kahi*), accused Joga Singh (**petitioner in CRM-M-47284-2025**) was armed

with *dang* and Dilbagh Singh was empty handed. Dilbagh Singh exhorted to catch hold of him and to teach him a lesson from stopping them to raise construction of wall around the aforesaid plot. Then, accused Sukhdev Singh (**petitioner in CRM-M-47337-2025**) gave *datar* blow to the complainant, which hit upon his right elbow. Accused Balwinder Singh gave *datar* blow to his left leg below the left knee. After that, accused Joga Singh (**petitioner in CRM-M-47284-2025**) and Sawinder Singh gave beatings to his father, namely, Hardeep Singh. They raised hue and cry. Upon which, all the accused persons while hurling threats of killing them fled away from the spot with their respective weapons, and while they were leaving house of the complainant, they also hit his mother, namely, Inderjit Kaur and his wife, namely, Sukhwinder Kaur. The complainant alongwith with his father got admitted to Civil Hospital Tarn Taran. Based on this statement, the instant FIR was duly registered and investigation ensued.

4. Learned counsel for the petitioner(s) has iterated that the petitioner(s) have been falsely implicated into the FIR in question. Learned counsel has further iterated that no specific injury has been attributed to the petitioner(s). Learned counsel has iterated that the alleged injuries sustained to the complainant appear to be self-inflicted, and a malicious effort has been made to falsely implicate the petitioner(s) into the FIR in question. Learned counsel has further argued that, on the other hand, the petitioner(s) themselves have sustained injuries and are also the victims in the occurrence in question. Learned counsel further submitted that the dispute in question is civil in nature, which escalated into a mutual altercation rather than a premeditated criminal assault. Learned counsel asserts that the police has not

conducted a fair and impartial investigation and the inquiry conducted so far is not only incomplete but also tainted with bias. Furthermore, the petitioners are ready to join the investigation and hence, no useful purpose would be served by sending them behind the bars. It is lastly submitted by the learned counsel that the present petitions be allowed and the petitioners be granted the concession of the anticipatory bail.

5. *Per contra*, learned State counsel has opposed the grant of anticipatory bail to the petitioners by arguing that the offence committed by the petitioners is serious in nature. Learned State counsel has iterated that the custodial interrogation of the petitioners is imperative for the purpose of effective and fair investigation, particularly in view of the fact that the weapons of offence are yet to be recovered from the petitioners. Learned State counsel has further submitted that, in case the petitioners are granted the concession of pre-arrest, at this stage, it may impede the ongoing investigation, obstruct recovery and adversely effect efforts to apprehend remaining co-accused. Given the severity of the offence and the existing enmity between the parties, there exists a substantial likelihood that the petitioners may abscond or tamper with the evidence if they are enlarged on bail. On the strength of these submissions, dismissal of anticipatory bail to the petitioners is entreated for.

6. Learned counsel for the complainant appears and files his *vakalatnama(s)*, which are taken on record. He has vociferously opposed the grant of anticipatory bail to the petitioners by raising submission in tandem with the learned State counsel.

7. I have heard the learned counsel for the rival parties and have gone through the available record of the case.

8. 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.

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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.”

9. As per the case put forth in the FIR in question, indubitably, serious allegations have been levelled against the petitioners. As per the version put forth by the prosecution, on the alleged day of occurrence, the petitioners alongwith other co-accused formed an unlawful assembly, some of them armed with weapons and having common intention, barged into the house of complainant and attacked upon him and his family members. Total 05 injuries were inflicted upon complainant, and out of them, injuries No.1

and 3 were found grievous in nature. Total 03 injuries were inflicted upon the complainant's father, namely, Hardeep Singh, and out of them, injury No.1 was declared grievous in nature. Further, total 04 injuries were inflicted upon complainant's mother, namely, Inderjit Kaur, and 03 injuries were inflicted upon wife of complainant, namely, Sukhwinder Kaur. The petitioner (Joga Singh) alongwith co-accused Sawinder Singh, armed with weapons, attacked upon the complainant's father Hardeep Singh with the intention to kill him. Multiple injuries were caused to Hardeep Singh, Inderjit Kaur, Sukhwinder Kaur and the complainant, who were attacked upon. The petitioner (Sukhdev Singh) armed with sickle, attacked upon the complainant with an intention to kill him. All the accused persons, after forming unlawful assembly and entering into the house of complainant, committed serious and grave offence in question. Recovery of the weapons is yet to be effected from the petitioner(s).

The petitioners have specifically been named in the FIR, and nature of the injuries attributed to them, are serious and life-threatening, reflecting severity of the alleged act. No cause *nay* plausible cause has been shown, at this stage, from which it can be deciphered that the petitioners have been falsely implicated into the present FIR. It goes without saying that in the instant case, the complainant has categorically stated that the petitioners 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.

10. 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 petitioners. 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, (1997) 7 SCC 187***, 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.”

10.1. In view of the seriousness of the allegations, the dangerous nature of the injuries, forming unlawful assembly while having common intention, and the overtly violent conduct of the accused as reflected in the available evidence, this Court finds no compelling ground to extend the benefit of discretionary relief to the petitioners. Granting bail at this stage would not only undermine the administration of justice but may also

embolden the accused and pose a threat to the safety and well-being of the victim and other witnesses. In view of the gravity of the allegations, the specific role attributed to the petitioners, the serious nature of injuries sustained by the victims and the necessity of custodial interrogation for a fair and thorough investigation, this Court is of the considered opinion that the petitioners do not deserve the concession of anticipatory bail in the factual matrix of the case in hand. Moreover, custodial interrogation of the petitioners is necessary for an effective investigation & to unravel the truth. The petitions are, thus, devoid of merits and are hereby dismissed.

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

12. Pending application(s), if any, shall also stand disposed of.

(SUMEET GOEL)
JUDGE

September 01, 2025

mahavir

Whether speaking/reasoned: Yes/No

Whether reportable: Yes/No