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

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Date of decision: 08.09.2025

Tirath Ram alias Tirath Singh

....Petitioner

V/s

State of Punjab

....Respondent

CORAM: HON'BLE MR. JUSTICE SUMEET GOEL

Present: Mr. Anil Kumar Spehia, Advocate for the petitioner.

Mr. Gurpartap S. Bhullar, AAG Punjab.

SUMEET GOEL, J. (Oral)

1. The present petition is the second attempt 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.99 dated 21.08.2024, registered for the offences punishable under Sections 103, 191(3), 190 of BNS, 2023 and Section 25 of the Arms Act and Section 238 of the BNS, 2023 (added later on) at Police Station Sadar Nakodar, District Police Commissionerate Jalandhar.

2. The gravamen of the FIR in question reflects that the criminal proceedings were initiated based on a complaint filed by Charan Dass, who alleged that a few days prior to the incident, the petitioner Tirath Singh, alongwith 5/6 individuals, came to the residence of the complainant, used abusive language and threatened his son namely Kulwinder Singh @ Kindi. It was further alleged that a complaint in this regard was lodged at Police Post Kala Sanghia, but no action was taken. Furthermore, on the alleged day of occurrence i.e. 20.08.2024, at about 08:00-08:30 PM, son of the



complainant namely Kulwinder Singh received a phone call from one Laddu and she immediately left the house on a motorcycle. The complainant and his other son namely Kuldeep Sing @ Babbyu, followed him. Thereafter, near the outskirts of village Uggi, they saw one Laddu talking to two individuals. At that time, a swift car (PB09-Z-6782) arrived, driven by co-accused Gurdit Singh @ Guri with Jatinder Singh @ Kohli in the front seat and the Tirath Singh (petitioner herein), Sukhwinder Singh @ Commando and Gurpreet Singh @ Datt seated in the rear. They alighted from the car and Tirath Singh (petitioner herein) alongwith co-accused Jatinder Singh allegedly began abusing the son of the complainant namely Kulwinder Singh, while holding *datars* in their hands. As the son of the complainant attempted to flee, accused Sukhwinder Singh allegedly fired a gunshot which hit his left thigh. The assailants then fled from the spot. Thereafter, son of the complainant namely Kulwinder Singh later succumbed to the injuries in the hospital. On these set of allegations, instant FIR *ibid* was registered against the accused. Following investigation, the final report has been submitted before the competent Court of jurisdiction.

3. Learned counsel for the petitioner has iterated that there has been a material change in the circumstances since the dismissal of the earlier bail petition on 07.08.2025. Learned counsel has further iterated that the complainant, who initially supported the case of the prosecution, has now resiled from his earlier version and has not supported the case of the prosecution before the Court below, as evidenced from his statement annexed as Annexure P-4 with the instant petition. Learned counsel has further contended that the petitioner was neither present at the spot at the



time of occurrence nor was he in the company of the principal accused. Furthermore, no specific overt act or injury has been attributed to the petitioner nor is there any recovery to be effected at his instance. Learned counsel has further submitted that the deceased was already facing litigation with the main accused, whereas the petitioner has no enmity or criminal antecedents and has been falsely implicated. Learned counsel has further iterated that the impugned FIR contains general and vague allegations of assault by all the accused persons using blunt weapons. It is further contended that, as per the post-mortem report, only a single gunshot injury was found on the deceased which has been specifically attributed to co-accused Sukhwinder Singh @ Commando. Learned counsel has further submitted that since the custodial interrogation of the petitioner is not required, thus, no useful purpose would be served by sending him behind the bars. On the basis of aforesaid submission, the grant of instant petition is entreated for.

4. *Per contra*, learned State counsel, (on the strength of advance notice) while opposing the present petition, has submitted that the allegations against the petitioner are grave as he formed part of a larger premeditated criminal conspiracy culminating in the murder of the deceased Kulwinder Singh @ Kidi. It has been further contended that the petitioner was actively present at the scene of crime and has been specifically named in the FIR. Learned State counsel has further contended that the allegations pertain to a grave and heinous offence involving the loss of human life. It has been further submitted that the complainant turning hostile, at this stage, cannot be a ground for anticipatory bail as it is a settled principle of law that



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any witness(s) may retract his/her statement(s) under extraneous influence, fear or coercion. According to learned State counsel, the investigation is still pending and the final report under Section 173 Cr.P.C. has not yet been presented before the competent Court of jurisdiction. It has been further contended that the petitioner is specifically named in the FIR and his role in facilitating the crime cannot be ruled out without proper investigation. According to him, in case the petitioner is granted the concession of pre-arrest bail, there is every likelihood that the petitioner may influence the witnesses or may commit a similar offence and/or flee from trial. Considering the seriousness of the offence, the role of the petitioner in facilitating the crime and the necessity for custodial interrogation, the dismissal of the instant petition is prayed for.

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 passed by this Court in a titled as ***Bhisham Singh vs. State of Haryana, 2024(3) RCR(Criminal) 65***, relevant whereof reads as under:-

“11. As an epilogue to the above rumination, the following principles emerge:

I Second/successive anticipatory bail petition(s) filed under Section 438 of Cr.P.C., 1973 is maintainable in law & hence such petition ought not to be rejected solely on the ground of maintainability thereof.

II Such second/successive anticipatory bail petition(s) is maintainable whether earlier petition was dismissed as withdrawn/dismissed as not pressed/dismissed for non-prosecution or earlier petition was dismissed on merits.

III For the second/successive anticipatory bail petition(s) to succeed, the petitioner/applicant shall be essentially/pertinently



required to show substantial change in circumstances and showing of a mere superficial or ostensible change would not suffice.

IV No exhaustive guidelines can possibly be laid down as to what would constitute substantial change in circumstances as every case has its own unique facts/circumstance. Accordingly, this issue is best left to the judicial wisdom and discretion of the Court dealing with such second/successive anticipatory bail petition(s).

V In case a Court chooses to grant second/successive anticipatory bail petition(s), cogent and lucid reasons are pertinently required to be recorded for granting such plea despite such a plea being second/successive petition(s). In other words, the cause for a Court having successfully countenanced/entertained such second/successive petition(s) ought to be readily and clearly decipherable from the said order passed.

VI Once a plea for anticipatory bail has been dismissed as withdrawn/dismissed as not pressed/dismissed for non-prosecution or dismissed on merits by the High Court, no second/successive anticipatory bail petition(s) shall be entertained by a Sessions Court.”

7. The present petition is a second petition for grant of anticipatory bail by the petitioner. A second anticipatory bail petition is indeed maintainable under law; however, it requires demonstration of a substantial change in circumstances since the earlier petition. It is a settled proposition of law that such a change must be significant and not merely superficial or technical, to warrant reconsideration. This standard ensures that the remedy of successive bail petitions is not misused through repeated filings but is available when new and material factors arise that alter the initial assessment of the case. At the outset, it may be noticed that this is the second petition filed by the petitioner for grant of anticipatory bail as his earlier plea was rejected by this Court on 07.08.2025. The only change of circumstance pleaded before this Court is the statement of the complainant who before the Court below has resiled from his previous version and not



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supported the case of prosecution. However, in the considered opinion of this Court, such a statement at this nascent stage of proceedings cannot be treated as determinative. It is well-settled that the testimony of hostile witnesses does not *ipso facto*, efface the prosecution case or entitle the accused for bail. This deposition remains part of the evidentiary record and shall be evaluated in the course of trial upon appreciation of entire evidence. Mere hostility of witness does not obliterate the substratum of the prosecution case, nor does it, by itself, confer a right of bail upon the accused, particularly in case of serious offences such as homicide.

8. The investigation is still in progress and the final report is yet to be presented before the competent Court of jurisdiction. The allegations against the petitioner pertain to a case of homicide which is a serious and heinous offence. The gravity of the offence and its impact on society are relevant considerations while deciding a petition for grant of anticipatory bail. A profitable reference in this regard is made to the judgment passed by the Three Judge Bench of the Hon'ble Supreme Court titled as ***Bhagwan Singh vs. State of Haryana, 1976 AIR Supreme Court 202***, relevant whereof reads as under:

“8. xxxxxxxxxxxxxxxxxxxxxxxx. The prosecution could have even avoided requesting for permission for cross-examine the witness under Section 154 of the Evidence Act. But the fact that the Court gave permission to the Prosecutor to cross examine his own witness. Thus, characterizing him as, what is described as a hostile witness, does not completely efface his evidence. The evidence remains admissible in the trial and there is no legal bar to base a conviction upon his testimony if corroborated by other reliable evidence.”

8.1. Still further, the Hon'ble Supreme Court in case titled as ***Koli Lakhmanbhai Chanabhai vs. State of Gujrat, 2000(1) RCR (Criminal) 26***,



has reiterated that even if a witness turns hostile, the portion of evidence which is credible and corroborated can still be acted upon. The relevant para of the said judgment reads thus:

“5. xxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxx. *It is settled law that evidence of hostile witness also can be relied upon to the extent to which it supports the prosecution version. Evidence of such witness cannot be treated as washed off the record. It remains admissible in the trial and there is no legal bar to base his conviction upon his testimony if corroborated by other reliable evidence.*”

9. Thus, the hostility of PW-1 at this stage cannot, by itself, be treated as a sufficient ground for the grant of anticipatory bail. The appreciation of his testimony vis-à-vis other prosecution evidence is a matter which falls within the exclusive domain of the trial Court. At the stage of bail, this Court cannot undertake a detailed evaluation of evidence or presume acquittal merely because a material witness has resiled from his earlier statement. The grant of anticipatory bail falls within the discretionary power of the Court; however, such discretion must be exercised in a judicious and principled manner, ensuring it aligns with established legal precedents and the interests of justice. While considering an anticipatory bail petition, the Court must evaluate factors such as the existence of *prima facie* evidence implicating the accused, the nature and gravity of the alleged offence, and the severity of the likely sentence upon conviction. Accordingly, this Court is of the considered opinion that the petitioner does not deserve the concession of anticipatory bail at this stage.

10. Furthermore, the contention of learned counsel for the petitioner that no weapon or recovery is attributed to the petitioner does not absolve him, at this stage, especially when his name is specifically mentioned in the



FIR. Whether the petitioner shared a common object with the co-accused or not is a matter that requires deeper investigation, which cannot be pre-empted at the stage of anticipatory bail. The possibility of the petitioner tampering with evidence or influencing witnesses also cannot be ruled out if he is released on anticipatory bail at this premature stage. The discretionary relief of anticipatory bail is not to be granted as a matter of right, particularly when the allegations involve the loss of a human life.

11. There is yet another determinative aspect of the matter which craves attention of this Court.

Indubitably, the first petition (for grant of anticipatory bail) preferred by the petitioner came to be dismissed by this Court on 07.08.2025 on merits. Thereafter, the petitioner has filed the instant petition i.e. second petition (for grant of anticipatory bail) and has reiterated the grounds previously taken (at the time of rejection of the first petition on 07.08.2025) except for the ground that the complainant has not supported the case of the prosecution. In the considered opinion of this Court, such a contention, at this nascent stage of the proceedings, cannot be treated as conclusive for the purpose of grant of anticipatory bail. The evidentiary value or reliability of the statement of the complainant is a matter to be tested during the course of trial and not at the stage of consideration of the anticipatory bail. The fact that the FIR-complainant has turned hostile may constitute a ground worth consideration for grant of regular bail but not anticipatory bail. Furthermore, the record would reveal that the petitioner has initially approached the learned Court below on 02.04.2025 whereby his application for grant of anticipatory bail was rejected on merits. Till now, the petitioner has



willfully evaded his arrest and failed to submit himself to the process of law. Such conduct demonstrates a clear disregard for the judicial process and constitutes a compelling ground to deny the grant of anticipatory bail to the petitioner. The prolonged evasion of the petitioner weighs heavily against the exercise of discretion in his favour under the provisions governing anticipatory bail. Furthermore, the first petition of the petitioner was dismissed on 02.04.2025 by the Court below, thereafter, he has approached this Court whereby his plea for anticipatory bail was rejected on 07.08.2025 and thereafter, the instant petition has been preferred after a gap of more than 05 months i.e. on 04.09.2025. It is evident that the petitioner has evaded the process of law for over 05 months. The conduct of the petitioner in avoiding arrest for such a prolonged period without any reasonable cause must be considered while adjudicating this second petition. Process of justice is meant to treat every individual in a manner which is equitable and fair. However; if the petitioner-accused choose to employ irregular and convoluted tactics, including undue delay, strategically aimed at frustrating the lawful proceedings/investigation, it tantamount to an abuse of the process of justice. While liberty and dignity of an individual must be held high, however, no one can be permitted to subvert and cause devolution in the process of justice. Protracted absence, eluding the process of law and abrupt repetition of pleas for pre-arrest bail, in absence of convincing reason(s) is certainly not an act/behaviour which calls for sympathy/indulgence of the Court. The hiatus of more than 05 months on part of the petitioner (herein) is inexplicable *nay* contumacious. Therefore, the conduct of the petitioner when examined in the backdrop of the



nature/severity of allegations made against the petitioner, dis-entitles him for grant of anticipatory bail.

12. In view of above ratiocination, it is directed as under:

- (i) The instant petition, being devoid of merit, is hereby dismissed at this stage.
- (ii) Any observations made and/or submissions noted hereinabove shall not have any effect on merits of the case and the investigating agency as also the trial Court shall proceed further, in accordance with law, without being influenced with this order.
- (iii) Pending application(s), if any, shall also stand disposed of.

(SUMEET GOEL)
JUDGE

September 08, 2025
Ajay

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