



IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

209

CRM-M-54055-2025 (O&M)

Date of decision:20.11.2025

BALWINDER SINGH ALIAS BINDER

.....PETITIONER

Versus

STATE OF PUNJAB

..... RESPONDENT

CORAM: HON'BLE MR.JUSTICE SURYA PARTAP SINGH

Present: Mr. Dhawaljeet Dutta, Advocate
for the petitioner.

Mr. Rohit Bansal, Sr. DAG, Punjab.

Mr. R.S. Bains, Sr. Advocate with
Mr. Malkiat S. Hundal, Advocate for
for the complainant.

SURYA PARTAP SINGH, J. (Oral):

1. For the commission of offence punishable under Sections 109, 61(2), 3(5), 351(2), 351(3) of BNS, 2023 and Section 25 of Arms Act, 1959 [Section 103 BNS Added later on] the FIR No.163 dated 21.07.2025 has been lodged in Police Station Jandiala, District Amritsar Rural. Since the petitioner is apprehending arrest in the above-mentioned case, by virtue of present petition, the petitioner is seeking the benefit of anticipatory bail. The petitioner is claiming the above-said concession by invoking the provisions enshrined under Section 482 of the Bharatiya Nagarik Suraksha Sanhita, 2023.

2. Briefly stating the facts emerging from record are that the FIR of this case came into being on the basis of statement of Daljit Singh @ Jita son



hereinafter being referred to as complainant only. It was stated by the complainant that on 21.07.2025 at about 09:00 A.M., he was waiting for his elder brother Lakhwinder Singh, an Advocate by profession, at service station near Ever Green Colony. According to complainant, when he spotted his brother, who was approaching him to pick him up, three persons riding on two motorcycles came from Baba Hundal side and they fired gun shot indiscriminately to kill his brother Lakhwinder Singh, due to which his brother Lakhwinder Singh suffered multiple injuries. According to above-named complainant, he came to know that the name of two assailants were Ajay Pal Singh @ Gandhi son of Baldev Singh @ Deba, Abhi son of Kanta.

3. It was further stated by the complainant that when he arranged a vehicle for shifting of his brother to hospital, on the way his brother told him that the above-mentioned attack was orchestrated by Balwinder Singh @ Binder, Gurpreet Singh @ Goldy, Ajay Pal Singh @ Gandhi, Abhi son of Kanta and Angrej Singh @ Titu. As per complainant the motive behind the above-mentioned attack was also disclosed by his brother and according to him the attack was launched upon him as he (Lakhwinder Singh) was defending the cases of rival group. As per complainant it was also stated by Lakhwinder Singh that in that regard a threat was given to him.

4. It is the case of the prosecution that in view of above-mentioned statement formal FIR of this case was lodged and the investigation taken up.

5. As per prosecution during the course of investigation as injured Lakhwinder Singh passed away, Section 103 BNS has been invoked in this case.



6. Heard.

7. It has been contended on behalf of petitioner that the petitioner is innocent having no nexus, whatsoever, with the commission of crime and that a fake and cooked up story has been projected against the petitioner, by depicting that the deceased had disclosed the name of petitioner as the conspirator behind the commission of above-mentioned offence. According to learned counsel for the petitioner the contents of FIR itself shows that the petitioner was not present on the spot at the time of occurrence and therefore, he could not have been instrumental in firing gun shots upon the deceased. As per learned counsel for the petitioner merely on the basis of an unreliable extra-judicial dying declaration, that, too, in the presence of an interested witness, the story set up by the persecution cannot be believed. While claiming that the petitioner is a peaceful and law abiding citizen having no criminal antecedents and that there is no legally admissible evidence against the petitioner, the learned counsel for the petitioner has sought for the benefit of bail for the petitioner.

8. *Per contra* the learned State counsel, being assisted by learned counsel for the complainant, has argued that in the present case there are very serious allegations of hatching a conspiracy to commit murder of Lakhwinder Singh against the petitioner, and that at this stage when the entire evidence is yet to be collected by the Investigating Agency, this plea of the petitioner that there is no evidence against the petitioner is not sustainable. While claiming that there is sufficient evidence available against the petitioner, it has been claimed by learned State counsel that in the present case to fix the role of



petitioner in the commission of crime, his custodial interrogation is of paramount importance. The learned State counsel has further contended that all the facts in the present case are yet to crystallize and that the right of custodial interrogation is a valuable right of the Investigating Agency which should not be curtailed unless there exist extraordinary circumstance. As per learned State counsel, if the above-mentioned right is denied to the Investigating Agency in this case, it will adversely affect the outcome of investigation.

9. The record has been perused carefully.

10. A perusal of record shows that in the present case, there are certain relevant factors, which are required to be taken into consideration for arriving at any decision. Those factors are:-

- i) that the investigation in the present case is still going on and all the facts pertaining to the present case are yet to crystallize, and take final shape;
- ii) that in order to ascertain whether petitioner was involved in the commission of crime or not, his custodial interrogation is of paramount importance and in the given facts situation if the above-mentioned right is denied to the Investigating Agency it will definitely have an adverse impact on the outcome of investigation and the entire investigation may not take a proper headway. Thus the denial of such right to the Investigating Agency may scuttle the investigation;
- iii) that the allegations against the petitioner are of hatching conspiracy in a very serious offence, i.e. murder, and that without interrogation of the petitioner his role, if any, in the commission of crime cannot be fixed.



11. With regard to such relief, the Hon'ble Supreme Court in the case of ***Srikant Upadhyay v. State of Bihar 2024 SCC OnLine SC 282***, has observed that power to grant anticipatory bail is extraordinary power, and that irrespective of the fact that in a number of cases, it has been held that bail is a rule, it cannot; by any stretch of imagination, be said that anticipatory bail is a rule.

12. The Hon'ble Supreme Court in the above-mentioned case has further observed that rule of anticipatory bail is a question of judicial discretion depending upon the facts and circumstances of each case. According to Hon'ble Apex Court, when called upon to exercise the abovesaid power the Court concerned has to be very cautious, as the grant of interim protection to the accused in serious cases may lead to miscarriage of justice and may hamper the investigation.

13. Similarly, in the case of ***Nikita Jagganath Shetty alias Nikita Vishwajeet Jadhav v. The State of Maharashtra and Another (Special Leave Petition (Criminal) No. 10255 of 2024, decided on 21.07.2024)***, the Hon'ble Supreme Court of India has held that anticipatory bail is an exceptional remedy and it ought not be granted in a routine manner. As per the Hon'ble Supreme Court, there must exist strong reasons for extending indulgence of this extraordinary remedy to a person accused of grave offence.

14. In the case of ***Gurbaksh Singh Sibba etc. v. State of Punjab 1980 SCC (2) 565***, the Hon'ble Supreme Court of India held that:-



- (i) The power under Section 438, Criminal Procedure Code, is of an extraordinary character and must be exercised sparingly in exceptional cases only.
- (ii) In addition to the limitations mentioned in Section 437, the petitioner must make out a special case for the exercise of the power to grant anticipatory bail.
- (iii) Where a legitimate case for the remand of the offender to the police custody under Section 167(2) can be made out by the investigating agency or a reasonable claim to secure incriminating material from information likely to be received from the offender under Section 27 of the Evidence Act can be made out, the power under Section 438 should not be exercised.

15. Taking into consideration the above mentioned facts and circumstances of the present case and the above-mentioned principles of law, which squarely covers the factual matrix of the present case, it is hereby held that the petitioner is not entitled for the benefit of anticipatory bail, and that the present petition, being devoid of merits, deserves dismissal. Hence, the present petition is hereby dismissed, accordingly.

16. All other pending applications, if any, are also disposed off, accordingly.

(SURYA PARTAP SINGH)
JUDGE

20.11.2025
vipin

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