

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

214

CRM-M-55363-2025

Date of decision: 04.12.2025

Varun @ Mogli

.....Petitioner

Versus

State of UT Chandigarh

.....Respondent

CORAM: HON'BLE MS. JUSTICE AARADHNA SAWHNEY

Present: Mr. Amit Kumar, Advocate for the petitioner.

Mr. Alankrit Bhardwaj, PP, UT, Chandigarh.

AARADHNA SAWHNEY, J (ORAL)

1. Petitioner, who is an accused in case FIR No.223 dated 03.11.2024 registered against him, for commission of offences punishable under Sections 115(2),117(2),118(1),126(2),351(2),351(3),3(5) of BNS (Section 109 of BNS added later on) at Police Station Sector 31, Chandigarh has filed the instant petition, praying for grant of pre-arrest bail.

2. Criminal proceedings in the present case were set into motion on the complaint lodged by Harnek Singh, son of Sant Ram, resident of H.No.446, Near Ravidas Mandir, Hallo Majra, Chandigarh, who mentioned therein that he is engaged in a private job. On 02.11.2024, he had gone to attend "Jagran", behind the government School, Hallo Majra. After offering the prayers, at about 11.00 PM, when he was returning back, he noticed a boy named "Deepu" who along with other accomplice suddenly surrounded him. Deepu was carrying a knife like sharp object whereas his other accomplice were armed with wooden dandas. Deepu and his friends started hurling cheap abuses. When he counselled them not to do so, they unleashed an attack in which Deepu gave a knife blow on his right shoulder and left abdomen. The other boys accompanying Deepu repeatedly hit him with wooden dandas on his legs etc. In this brutal assault, he fractured his leg and suffered serious injuries on other parts of his body. When he cried for help,

assailants sped away but not before issuing a threat to kill him on any given suitable opportunity.

Police officials, who were on patrolling duty near the police post, Hallo Majra, received wireless message with regard to the aforesaid incident. They arrived at the spot, met the injured and rushed him to the hospital. On account of his delicate medical condition, he was admitted in the hospital and provided requisite medical care and treatment. On the basis of the aforesaid complaint, a formal case FIR No.223 dated 03.11.2024 under Sections 115(2),117(2),118(1),126(2),351(2),351(3),3(5) of BNS was registered.

3. Apprehending his arrest, the petitioner moved an application for grant of bail before the learned Addl. Sessions Judge, Chandigarh. Same came to be dismissed vide order dated 01.05.2025. Aggrieved of which, present petition has been filed.

4. Learned counsel for the petitioner submits that the petitioner has been falsely implicated in the present case. Facts have been twisted by the complainant in connivance with the local police officials only with a view to harass the petitioner as also to extract illegal monetary benefits from him. Relations between the complainant and Deepu were not cordial. Petitioner being the cousin brother of Deepu has been unnecessarily arrayed as an accused and to whom no specific injury has been attributed. The fact that the treating Doctor opined 03 out of 04 injuries suffered by the petitioner to be grievous in nature, it is a matter of evidence whether offence under Section 109 of BNS (Section 307 IPC) is made out or not. It is further the submission of learned counsel that Deepak @ Deepu, who has been specifically named in the FIR has been granted the concession of regular bail by this Court vide order dated 28.05.2025 passed in CRM-M-26555-2025. Investigations are complete for challan has been filed.

Learned counsel for the petitioner further contends that the custodial interrogation of the petitioner is not needed as nothing is to be recovered at his instance, nonetheless, he is willing to join the investigation.

5. Per contra, learned State counsel submits that the petitioner along with his cousin brother, who was specifically named in the FIR along with his other accomplice unleashed a brutal attack on the complainant, who suffered multiple injuries and needed surgical intervention. The injury attributed to the petitioner on the leg of the complainant has been declared “Grievous” in nature. Petitioner has been evading his arrest and has been on the run since the day of the incident. Custodial interrogation of the petitioner is required to recover the weapon of offence. In the light of the submissions advanced hereinabove, learned State counsel contends that the petitioner has not been able to make out a case for grant of pre-arrest bail and thus prayed for dismissal of the petition.

6. 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 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, ((2020) 13 SCC 791)**, has observed as under:-

“67. 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 Cr.P.C 1973 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 applicant fleeing justice and other factors to decide whether it is a fit case for grant of anticipatory bail. Grant of anticipatory bail to some extent interferes in the sphere of investigation of an offence and

hence, the court must be circumspect while exercising such power for grant of anticipatory bail. Anticipatory bail is not to be granted as a matter of rule and it has to be granted only when the court is convinced that exceptional circumstances exist to resort to that extraordinary remedy.”

In ***Nikita Jagganath Shetty @ Nikita Vishwajeet Jadhav Vs. The State of Maharashtra and another, 2025 AIR SC 3375***, the Hon’ble Supreme Court held that *“Anticipatory bail is an exceptional remedy and ought not to be granted in a routine manner.”*

The factual backdrop of the case and role played by the petitioner in the entire incident has been highlighted in para 2 of this order. In view of submissions advanced by learned Public Prosecutor for UT, Chandigarh but without expressing any opinion on the merits of the case, petitioner-accused has not been able to make out a case of exceptional depravity/hardship in his favour entitling him for grant of the concession.

The petition being devoid of any merit is hereby dismissed.

04.12.2025
manoj

(AARADHNA SAWHNEY)
JUDGE

Whether speaking/reasoned: Yes/No
Whether Reportable: Yes/No