

2025.PHHC.007323



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

**CRM-M-63198-2024
DECIDED ON: 16.01.2025**

BALRAM SINGH**.....PETITIONER****VERSUS****STATE OF PUNJAB****.....RESPONDENT****CORAM: HON'BLE MR. JUSTICE SANDEEP MOUDGIL**

Present: Mr. S.S. Majithia, Advocate
for the petitioner.

Mr. Jaspal Singh Guru, AAG Punjab

Mr. Vikas Gupta, Advocate for the complainant.

SANDEEP MOUDGIL, J (ORAL)**1. Relief Sought**

The jurisdiction of this Court under Section 482 of BNSS, 2023, has been invoked seeking anticipatory bail to the petitioner in case FIR No. 233, dated 17.11.2024, under Sections 103(1), 190, 191 (3) of BNS, 2023, and Section 25(6) of Arms Act, 1959, registered at Police Station Jhabhal, District Tarn Taran Sections 61(2) and 351(2)(3) of BNS added subsequently vide GD No.4 dated 19.11.2024 (Annexure P-2)

2. Prosecution story, set up in the present case as per the version in the FIR read as under :-

“Statement of Baljinder Singh son of Pratap Singh Sarpanch, resident of Lalu Ghuman, Police Station Jhabal, district Tarn Taran, aged about 46 years, Mob. No. 8847472305, stated that I am a resident of the above mentioned address and I am engaged in agriculture. Today, on 17.11.24, my father Pratap Singh Sarpanch

son of Gian Singh, resident of Lalu Ghuman, aged about 75 years, had come in the morning to attend the Bhog ceremony of deceased mother of Bhagwant Singh son of Mahinder Singh, resident of Lalu Ghuman. After the Bhog ceremony was completed, after having prashada (meal), my father Pratap Singh Sarpanch along with his companion Budh Singh son of Kalyan Singh, resident of Lalu Ghuman, had just left the house where bhog ceremony was held to take his motorcycle from the house of above said Budh Singh, on the way, it must have been around 1:30 pm when an unknown person with 2 pistols came on his motorcycle and started shooting at my father. My father Pratap Singh Sarpanch fell on the ground where a bullet hit in the leg of Budh Singh. In the meanwhile, Bhagwant Singh son of Mahinder Singh, resident of Lalu Ghuman in whose house the bhog ceremony was held regarding his deceased mother, along with other persons came forward who was also shot by the unknown persons. And all this was done for the Sarpanchi Election of my father Pratap Singh Sarpanch by the opposition party's Bikramjit Singh son of Wassan Singh, Nishan Singh son of Desa Singh, Ranjit Singh son of Jaswant Singh, Desa Singh son of Sulakhan Singh, Balram Singh son of Harbhajan Singh, resident of Lalu Ghuman. They have been calling us since the Sarpanch election with threats through Amritpal Singh resident of Miapur. Along with them Ranjit Singh l Rana son of Wassan Singh, resident of Lalu Ghuman, presently in Canada, has been threatening us over the phone since the election that they will not be allowed to stay in the village. While the unknown person was leaving, a pistol fell on the ground from their custody, which was taken by your good self in your possession. My father Partap Singh, Sarpanch had died at the spot due to gunshot. And Budh Singh son of Kalyan Singh was taken to the hospital for treatment. Strictest action should be taken against the above- mentioned persons who shot, planned and killed my father. Justice be given for the murder of my father. I, Budh Singh and Bhagwant Singh have seen this whole incident with our own eyes, statement has got been recorded, read over and is accepted as correct. SD/-Baljinder Singh, Verification/- Paramjit Singh INSP/ SHO Police Station Jhabal dated 17.11.24. ”

3. **Contentions**

On behalf of the petitioner

The petitioner contends that, according to the FIR, he was neither the perpetrator of the alleged offence nor was present at the scene of the incident, and that his inclusion in the FIR is motivated by an ulterior intent to dissuade him from contesting the forthcoming elections. The petitioner undertakes before this Court that he is ready and willing to cooperate with the investigation.

On behalf of the State/complainant

The learned State counsel, appearing on advance notice, assisted by learned counsel for the complainant prays for the dismissal of the present petition on the ground that the allegations against the petitioner are of a serious nature, therefore, his custodial interrogation is required at this stage.

4. Analysis

In case of criminal investigation, the normal procedure prescribed for curtailing the right to life & liberty, is that the investigating officer can arrest the accused even without warrant. No doubt this Court has extraordinary power to protect an innocent person. However, this power has to be exercised by the Courts with due circumspection.

According to the allegations set forth in the FIR, the father of the complainant, who was the Sarpanch of the village, was allegedly shot by an unknown assailant acting at the instigation of the petitioner and co-accused. The allegations involved are of grave and serious nature, wherein the murder of one individual has been committed and the serious injury to another has been caused.

The investigation is still in its preliminary stage, and custodial interrogation of the petitioner is essential for the effective conduct and logical conclusion of the investigation. In cases involving murder, where the accused is alleged to have shot and killed a person in broad daylight using a pistol, such actions demonstrate a criminal mindset and a blatant disregard for the rule of law. Additionally, the allegations suggest the presence of political rivalry, which may have led to the murder of the newly elected Sarpanch, Partap Singh.

The Hon'ble Supreme Court in the case of ***Sumitha Pradeep Vs. Arun Kumar C.K. & Anr. 2022 Live Law (SC) 870*** held that merely because custodial interrogation was not required by itself could not be a ground to grant

anticipatory bail. The first and the foremost thing the Court hearing the anticipatory bail application is to consider is the *prima facie* case against the accused. The relevant extract of the judgment is reproduced hereinbelow:-

“It may be true, as pointed out by learned counsel appearing for Respondent No.1, that charge-sheet has already been filed. It will be unfair to presume on our part that the Investigating Officer does not require Respondent No.1 for custodial interrogation for the purpose of further investigation.

Be that as it may, even assuming it a case where Respondent No.1 is not required for custodial interrogation, we are satisfied that the High Court ought not to have granted discretionary relief of anticipatory bail.

*We are dealing with a matter wherein the original complainant (appellant herein) has come before this Court praying that the anticipatory bail granted by the High Court to the accused should be cancelled. To put it in other words, the complainant says that the High Court wrongly exercised its discretion while granting anticipatory bail to the accused in a very serious crime like POCSO and, therefore, the order passed by the High Court granting anticipatory bail to the accused should be quashed and set aside. In many anticipatory bail matters, we have noticed one common argument being canvassed that no custodial interrogation is required and, therefore, anticipatory bail may be granted. There appears to be a serious misconception of law that if no case for custodial interrogation is made out by the prosecution, then that alone would be a good ground to grant anticipatory bail. Custodial interrogation can be one of the relevant aspects to be considered along with other grounds while deciding an application seeking anticipatory bail. There may be many cases in which the custodial interrogation of the accused may not be required, but that does not mean that the *prima facie* case against the accused should be ignored or overlooked and he should be granted anticipatory bail. The first and foremost thing that the court hearing an anticipatory bail application should consider is the *prima facie* case put up against the accused. Thereafter, the nature of the offence should be looked into along with the severity of the punishment. Custodial interrogation can be one of the grounds to decline custodial interrogation. However, even if custodial interrogation is not required or necessitated, by itself, cannot be a ground to grant anticipatory bail.”*

More so, investigation is still going on in the present case. It is settled proposition of law that power exercisable under Section 482 BNSS, is somewhat discretionary in character and it is to be exercised with caution in exceptional cases. The Supreme Court in “State vs. Anil Sharma”; (1997) 7 SCC 187, held as under:-

“We find force in the submission of the CBI that custodial interrogation is qualitatively more elicitation oriented than questioning a suspect who is well ensconded 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 material 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 needs 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.”

Keeping in view the circumstances of instant case, the role attributed to the petitioner and bearing in mind the law enunciated as discussed hereinabove, this Court is of the view that his custodial interrogation is required to collect the material evidence, which may further enable the Investigating Agency to unearth the ramifications involved in the present case and that will ultimately help the Investigating Agency to reach to a logical conclusion, this Court does not find any merit in the present petition, hence the same stands dismissed with no order as to costs.

However, it is made clear that the observations in this order are only for the purposes of deciding this bail application and the trial Court is free to adjudicate upon the matter in accordance with law.

Ordered accordingly.

(SANDEEP MOUDGIL)
JUDGE

16.01.2025

Meenu

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