



CRM-M-65443-2025

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IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M-65443-2025

Sushil Machan ...Petitioner

V/s

State of Punjab ...Respondent

Date of decision: 02.12.2025

Date of Uploading: 02.12.2025

CORAM: HON'BLE MR. JUSTICE SUMEET GOEL

Present: Mr. Nikhil Thamman, Advocate and
Ms. Sunaina, Advocate for the petitioner.
Mr. Adhiraj Singh Thind, AAG Punjab.

SUMEET GOEL, J. (Oral)

1. Present petition has been filed on behalf of the petitioner seeking grant of anticipatory/pre-arrest bail under Section 482 of BNSS, 2023 in FIR No.270 dated 21.10.2025 registered for offences punishable under Sections 304, 196, 352, 353(1), 3(5) of BNS, 2023 and Section 67 of I.T. Act, 2000 at Police Station Division No.7, District Ludhiana.
2. The gravamen of the FIR pertains to using of abusive words and insulting the Purvanchal community. It was alleged by the complainant Braj Bhushan Singh that he belongs to the Purvanchal community. The petitioner Sushil Machan, is a journalist. According to the complainant, the co-accused Sandeep Singh Attal @ Sandvi and the petitioner Sushil Machan regularly insult the Purvanchal community. He further alleged that petitioner Sushil Machan abuses, threatens, intimidates and blackmails poor road vendors. The accused also deliver provocative and hateful speeches



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against the Hindu-Sikh communities to create social disharmony. It has been further alleged that the both the aforesaid accused make derogatory remarks about the women of the Purvanchal community which has caused great anger among its members. Both the accused were blackmailers who extort money from the migrant workers by threatening them. The complaint was supported by a memorandum signed by several other members of the Purvanchal community. The matter was forwarded to the ADCP for investigation. During the course of inquiry, the complainant submitted a pen drive. It was found that the petitioner Sushil Machan had intentionally interviewed co-accused Sandeep Singh alias Sandvi, who made provocative statements by claiming that migrants from Uttar Pradesh and Bihar bring large quantities of ganja to Punjab and sell it in Ludhiana. Furthermore, the women of the Purvanchal community are involved in flesh trade and that migrants are now ruling Punjab. On these set of allegations, the instant FIR was registered.

3. Learned counsel for the petitioner has iterated that the petitioner has been falsely implicated and that the present FIR is nothing but a counterblast to the FIR lodged from the petitioner's side against one Vishal, arising out of a dispute between members of the Punjabi and Purvanchal communities outside the police station. Learned counsel has further iterated that the present case is a case of version and cross-version as the incident arose out of a verbal altercation between the members of the Punjabi and Purvanchal communities outside the police station resulting in FIRs being lodged by both the sides. Learned counsel has further submitted



been introduced later only through a supplementary statement. Learned counsel has further iterated that the allegations against the petitioner are vague, baseless and appear to be motivated by malice. Learned counsel has further submitted that despite there being no direct or indirect involvement of the petitioner in the alleged occurrence, he has been roped into the present case without any credible evidence. Learned counsel has further submitted that there is no need for custodial interrogation of the petitioner as nothing incriminating remains to be recovered from him. Moreover, there is no likelihood of the petitioner absconding from the process of justice or tampering with the prosecution evidence in case he is enlarged on pre-arrest bail. On strength of these submissions, the grant of anticipatory bail is entreated for.

4. *Per contra*, learned State counsel has opposed the grant of anticipatory bail to the petitioner by arguing that the offence committed by the petitioner is serious in nature. Referring to reply by way of an affidavit of Sumit Sood, PPS, Assistant Commissioner of Police, East, Ludhiana relevant whereof reads as under:

“(A) Role of the petitioner:

i) Petitioner, portraying himself as a journalist, deliberately organized and recorded an interview of co-accused Sandeep Singh @ Sandvi wherein extremely derogatory and hate-filled statements were made against the Purvanchal community. The petitioner not only facilitated such provocative content but also circulated it on social media, thereby contributing to the spread of hatred, communal disturbance and insulting the dignity of women belonging to the Purvanchal community. It has further surfaced that on 24.09.2025, the petitioner, along with co-accused and some Nihang persons, waylaid Nitin Kumar and Mukesh Kumar outside Police Station Division No. 7 and forcibly snatched the mobile phone of Nitin Kumar (Realme 13 Pro Plus).



(B) Evidence against the petitioner:

i) Pen-Drive: ACP (East), during inquiry, examined the pen-drive submitted by the complainant which contains the interview recently conducted by the petitioner. In this interview, co-accused Sandvi made highly inflammatory statements such as migrants "ruling Punjab," Biharis "bringing ganja in kilos," and women from Bihar being involved in prostitution. The said interview was recorded, encouraged and disseminated through petitioner's platform, thereby showing his intentional participation in spreading hate-motivated content.

ii) Social Media Circulation & Public Reaction: The enquiry report further records that the said video was made viral on social media, causing widespread resentment amongst members of the Purvanchal community and creating a situation capable of disturbing public order and communal harmony. The circulation of such content is directly attributable to the petitioner who exercised control over the recording and dissemination machinery.

iii) Statements of complainant Brij Bhushan Singh and witness Nitin Kumar.

iv) Enquiry Report.

(C) Criminal Antecedents of the Petitioner:

(D) Status of the trial:

The investigation of present case is in process and at initial stage.

(E) Criminal Antecedents of the Petitioner:

Petitioner is involved in 3 other FIRs viz:

i) FIR No. 33 dated 03.03.2023 under section 323, 341, 506, 34 IPC registered at Police Station, Sadar, District Ludhiana. (Pending Trial Qua Co-accused- Accused)

ii) FIR No.1 dated 03.01.2024 under section 448, 511, 380, 427, 323, 506, 354, 149 IPC registered at Police Station, Daba, District Ludhiana. (Pending Trial)

iii) FIR No.107 dated 15.09.2025 under section 115 (2), 191 (3) BNS registered at Police Station, Daba, District Ludhiana. (Pending Investigation)

(F) Necessity of Custodial Interrogation of the Petitioner

i) That custodial interrogation of the petitioner is indispensable to recover the snatched mobile phone (Realme 13 Pro Plus) belonging to victim Nitin Kumar, which remains untraced.



ii) *That custodial interrogation is further required to identify and ascertain the network of individuals, including Nihang persons, who accompanied the petitioner during the incident dated 24.09.2025, as well as to expose the larger conspiracy behind the narrative-building exercise targeting migrants and disturbing public order.*

iii) *That custodial interrogation is also vital to trace the devices, accounts, platforms and channels used by the petitioner for creation, recording, uploading and dissemination of hate speech content, which cannot be effectively recovered or examined without custodial cooperation.”*

Learned State counsel has raised submission in tandem with the aforesaid reply and submits that serious allegations have been levelled against the petitioner, who being a journalist, allegedly misused his position to spread defamatory, provocative, and communal statements against the Purvanchal community, migrants, and women of that community. It is submitted that such material is capable of creating enmity and hatred among communities and has already generated unrest among members of the Purvanchal community. Learned State counsel has further iterated that the complainant has specifically named the petitioner for his active role in the incident. On the strength of these submissions, 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. As per the case put forth in the FIR in question, indubitably, serious allegations have been levelled against the petitioner. The material placed on record, including the digital evidence submitted during investigation, prima facie shows deliberate acts intended to insult, provoke



journalist and his conscious decision to record and publicize an inflammatory interview weighs heavily against him at this stage. The fact that FIRs exist from both sides does not dilute the independent and serious nature of the allegations levelled against him in the present case. The material collected during the course of investigation including the supplementary statement and the pen-drive produced by the complainant, indicates that the petitioner, being a journalist, circulated abusive and inflammatory remarks against the Purvanchal community, migrant labourers and women of that community. The complaint was supported by a memorandum signed by several other members of the Purvanchal community and the digital material produced during investigation *prima facie* indicate that the petitioner was instrumental in circulating content containing derogatory and inflammatory statements targeting specific groups. To borrow from the *Speech Act Theory* (propounded by Austin and Searle), utterances are required to be examined not just for their literal meaning but also for the communicative intention and action they convey. Every speech act involves a locutionary act (the word spoken), an illocutionary act (the speaker's intention) and a perlocutionary act (the effect on the audience).

The allegation in the present case is not only confined to roadside altercation but point towards the conduct which is capable of provoking communal disharmony which carries far graver implications. The plea of the petitioner that he was named only in a supplementary statement is not sufficient to discard or dilute the material that has surfaced during the course of investigation. In the considered opinion of this Court, the matter is



not only serious but possesses the potential to disturb the public order and peace among the communities. At this stage, such material cannot be brushed aside as wholly unreliable and the grant of anticipatory bail to the petitioner would hamper the ongoing investigation and undermine the effort to maintain communal harmony.

7. The Court is not oblivious of the fact that the offence of this nature not only affects the individual but also creates a sense of insecurity in the community at large. Protection of such offenders at the stage of investigation would send a wrong signal to society and embolden others to indulge in similar unlawful activities. The power under Section 482 of BNSS, 2023 is meant to protect innocent persons from unnecessary harassment and false implication but the same cannot be extended to those against whom there are prima facie serious allegations supported by material collected during investigation. The investigation is still in progress and the investigating agency is required to scrutinize the electronic evidence and the degree of complicity of the petitioner and others involved. Such offences necessitate a strong and principled judicial response to prevent their recurrence.

8. A perusal of the FIR and the material collected during investigation indicates that the petitioner has circulated provocative interviews containing abusive and defamatory remarks against the Purvanchal community. The investigation is still in progress and the investigating agency is required to scrutinize electronic evidence, ascertain the source of recordings and the degree of complicity of the petitioner and others involved. In these circumstances, the custodial interrogation of the



petitioner cannot be said to be unnecessary. In the considered opinion of this Court, granting anticipatory bail at this stage may likely to hamper the on going investigation.

9. Moreover, no cause *nay* plausible cause has been shown, at this stage, from which it can be deciphered that the petitioner has been falsely implicated into the present FIR. 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 interests. 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. At this stage, there is no material on record to hold that *prima facie* case is not made out against the petitioner. 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 : 1997 SCC (Cri) 1039***, the Hon'ble 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 task of disinterring offences would not conduct themselves as offenders.”

10. Considering the gravity of allegations, the nature of the evidence collected so far and the requirement of effective investigation, and the necessity of the custodial interrogation for a fair and thorough investigation, this Court is of the considered opinion that the petitioner does not deserve the concession of anticipatory bail in the factual *milieu* of the case in hand.

11. In view of the prevenient ratiocination, it is ordained thus:
- (i) The instant petition is devoid of merits and is hereby dismissed.
 - (ii) Nothing said hereinabove shall be deemed to be an expression of opinion upon merits of the case/investigation.
 - (iii) Pending application(s), if any, shall also stand disposed off.

(SUMEET GOEL)
JUDGE

December 02, 2025
Ajay

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