



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

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**CRM-M No.12145 of 2026
Date of decision : 7.3.2026
Date of uploading : 7.3.2026**

Jaswinder Singh @ Kala KhialekaPetitioner
Versus
State of PunjabRespondent

CORAM: HON'BLE MR. JUSTICE SUMEET GOEL

Present: Mr. Nandan Jindal, Advocate, for the petitioner
Mr. Gaurav Gurcharan S. Rai, Senior DAG, Punjab

SUMEET GOEL, J. (ORAL)

1. Apprehending his arrest in FIR No.97 dated 29.12.2025, under Sections 118(2), 118(1), 115(2), 351(2), 324(4), 190, 191(3) of Bharatiya Nyaya Sanhita, 2023 (Section 109 of BNS added later on), registered at Police Station Mehal Kalan, District Barnala, the petitioner has preferred this petition under Section 482 of Bharatiya Nagarik Suraksha Sanhita, 2023 seeking pre-arrest bail.
2. The case set up in the FIR in question (as set out in the present petition by the petitioner) is as follows:-

'Statement of Shamsher Khan S/o Sharif Mohd. R/o Kaura Patti, MehalKalan aged about 25 years M.No.62 390-46215, stated that I am the resident of above said address I do the labour work in order to earn livelihood. I had two sisters out of whom, my sister Seria has expired and the name of my elder brother is Wakeel Khan who is also doing the labour work. I in order to maintain my family purchased one Ertiga Car bearing No.PB01F2430 on installments in the year



2024, the same is being plied at Taxi Stand as Taxi, I drive the same. On 27.12.25 I was returning on my above said car to MehalKalan at my home after completing the round of trip towards Barnala then when I reached near the road towards Hospital and Hon'ble DSP nearby to the main road then the time might be around 6:30 PM then one Swift Car of White Colour stopped ahead of my car out of which Hardeep Singh @ Happy S/o Bala Singh armed with pistol, Barru Singh S/o Labh Singh armed with Kirpan, Sonu Singh S/o Buta Singh armed with Kirpan, Sandy S/o Kamal Singh armed with rod and Munish Yadav armed with Kirpan came out of the car and after seeing these persons I immediately opened the door of my car and ran towards the rear side. All of these people started breaking my car and from the back side meaning thereby that from the side of Mehalkalan bus stand Napoli S/o Buta Singh armed with rod, Preet Singh S/o Meeti armed with rod, Gora Singh S/o Labh Singh armed with rod, Ravi Singh S/o Sanju, residents of ChakBhai with iron gandasi, Yaddi S/o Veera Singh armed with iron rod, Maninder Singh S/o Jeetu @ Pamma armed with Kirpan came on 3-4 motor cycles who encircled me, in the meantime one Scorpio car also came from MehalKhurd side and stopped at the spot out of which Bittu @ Arshdeep, Kala Khialeka armed with iron rod, Davinder Singh S/o Jaspal Singh armed with iron rod, Inderpal Singh @ Bola armed with iron rod, Harbhajan Khan S/o Jeet Khan armed with iron rod, Manzoor Khan S/o Jeet Khan armed with Gandassi which was fitted in the iron pipe, Lakhwinder Singh S/o Unknown armed with iron rod and Bala Singh armed with Kirpan all of them alighted at MehalKalan who started beating me who broke my both legs, my both arms and also hit at my head with Kirpan and iron rods. Hardeep Singh @ Happy tried to fire bullet at me with pistol but the same could not fire then he caught hold the iron rod from Davinder Singh and hit the same directly at my head. My car was also broken completely, all of them kept on beating me with iron rods and kirpan till the time I got unconscious. On regaining consciousness my brother Wakeel Khan told me that on 27.12.25 at around 6:45 PM when Hardeep Singh @ Happy, Davinder Singh @ TaibiEtc were hitting you mercilessly with iron rods and kirpans then I reached at the spot, I was watching from a side by hiding, if I would have also come in front of them then they would have also beat me mercilessly, then all of them by thinking you as dead ran from the spot on their cars, motorcycle along with weapons. I got you admitted at CHC MehalKalan by taking help from other people and from a car at the spot from where you were referred to CH Barnala from where also you were referred to AIIMS Hospital, Bathinda due to grievous injuries on your person where I am under the treatment. I and my family may kindly be delivered the justice by taking appropriate legal action against them for injuring me and for causing loss to my new Ertiga car bearing the number as mentioned above. Today I have got recorded the statement to your goodself in the presence of my brother



WakeelKhan, the same has been heard and is found to be correct. LTI Shamsheer Khan verification of the statement Sd/- Wakeel Khan S/o Sharif Mohd. Residents of MehalKalan aged about 33 years 98724-25302 verified Sd/- Gurmail Singh ASI PS MehalKalan date 29.12.25.'

3. Learned counsel for the petitioner has argued that the petitioner has been falsely implicated into the FIR in question. Learned counsel has further argued that the role ascribed to the petitioner is only of attacking the complainant with the rod. Learned counsel has further argued that apart from that, no specific/grievous injury has been attributed to the petitioner. Learned counsel has further submitted that no case under Section 109 of BNS (Section 307 of IPC) is made out against the petitioner. Learned counsel has further submitted that there is delay of more than 24 hours in lodging the FIR as the incident has occurred at about 6:30 p.m. on 27.12.2025 whereas the present FIR was got registered on 29.12.2025 at about 8:00 p.m. Thus, petitioner be given the concession of anticipatory bail.

4. *Per contra*, learned State Counsel has vehemently opposed the grant of anticipatory bail to the petitioner by arguing that the allegations against the petitioner are grave and serious in nature. Learned State Counsel submits that the petitioner has a vital role in the commission of offence. The investigation qua the FIR in question is still ongoing and 15 co-accused are yet to be arrested. Learned State counsel has iterated that the custodial interrogation of the petitioner is imperative for the purpose of effective and fair investigation and to unearth the case of the prosecution. According to learned State counsel, in case the petitioner is



granted the concession of pre-arrest bail, at this stage, it may impede the ongoing investigation.

5. I have heard learned counsel for the rival parties and have gone through the entire record.

6. It would be apposite to refer herein to a judgment of the Hon'ble Supreme Court titled as ***Kishor Vishwasrao Patil vs. Deepak Yashwant Patil and another*** passed in ***SLP(Crl) No.1125-2022***, relevant whereof reads as under:

“74. Ordinarily, arrest is a part of the process of the investigation intended to secure several purposes. There may be circumstances in which the accused may provide information leading to discovery of material facts and relevant information. Grant of anticipatory bail may hamper the investigation. Pre-arrest bail is to strike a balance between the individual's right to personal freedom and the right of the investigating agency to interrogate the accused as to the material so far collected and to collect more information which may lead to recovery of relevant information.

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*75. Observing that the arrest is a part of the investigation intended to secure several purposes, in ***Adri Dharan Das v. State of W.B. [Adri Dharan Das v. State of W.B., (2005) 4 SCC 303 : 2005 SCC (Cri) 933]***, it was held as under : (SCC p. 313, para 19)*

“19. Ordinarily, arrest is a part of the process of investigation intended to secure several purposes. The accused may have to be questioned in detail regarding various facets of motive, preparation, commission and aftermath of the crime and the connection of other persons, if any, in the crime. There may be circumstances in which the accused may provide information leading to discovery of material facts. It may be necessary to curtail his freedom in order to enable the investigation to proceed without hindrance and to protect witnesses and persons connected with the victim of the crime, to prevent his disappearance, to maintain law and order in the locality. For these or other reasons, arrest may become an inevitable part of the process of investigation.



The legality of the proposed arrest cannot be gone into in an application under Section 438 of the Code. The role of the investigator is well defined and the jurisdictional scope of interference by the court in the process of investigation is limited. The court ordinarily will not interfere with the investigation of a crime or with the arrest of the accused in a cognizable offence. An interim order restraining arrest, if passed while dealing with an application under Section 438 of the Code will amount to interference in the investigation, which cannot, at any rate, be done under Section 438 of the Code.”

76. In ***SiddharamSatlingappaMhetre v. State of Maharashtra*** [***SiddharamSatlingappaMhetre v. State of Maharashtra, (2011) 1 SCC 694 : (2011) 1 SCC (Cri) 514***], the Supreme Court laid down the factors and parameters to be considered while dealing with anticipatory bail. It was held that the nature and the gravity of the accusation and the exact role of the accused must be properly comprehended before arrest is made and that the court must evaluate the available material against the accused very carefully. It was also held that the court should also consider whether the accusations have been made only with the object of injuring or humiliating the applicant by arresting him or her.

77. After referring to ***SiddharamSatlingappaMhetre*** [***SiddharamSatlingappaMhetre v. State of Maharashtra, (2011) 1 SCC 694 : (2011) 1 SCC (Cri) 514***] and other judgments and observing that anticipatory bail can be granted only in exceptional circumstances, in ***Jai Prakash Singh v. State of Bihar*** [***Jai Prakash Singh v. State of Bihar, (2012) 4 SCC 379 : (2012) 2 SCC (Cri) 468***], the Supreme Court held as under : (SCC p. 386, para 19)

“19. Parameters for grant of anticipatory bail in a serious offence are required to be satisfied and further while granting such relief, the court must record the reasons therefor. Anticipatory bail can be granted only in exceptional circumstances where the court is *prima facie* of the view that the applicant has falsely been enroped in the crime and would not misuse his liberty. (See ***D.K. Ganesh Babu v. P.T. Manokaran*** [***D.K. Ganesh Babu v. P.T. Manokaran, (2007) 4 SCC 434 : (2007) 2 SCC (Cri) 345***], ***State of Maharashtra v. Mohd. Sajid Husain Mohd. S. Husain*** [***State of Maharashtra v. Mohd. Sajid Husain Mohd. S. Husain, (2008) 1 SCC 213 : (2008) 1 SCC (Cri) 176***] and ***Union of***



India v. Padam Narain Aggarwal [Union of India v. Padam Narain Aggarwal, (2008) 13 SCC 305 : (2009) 1 SCC (Cri) 1/.]

Economic offences

78. Power under Section 438 CrPC being an extraordinary remedy, has to be exercised sparingly; more so, in cases of economic offences. Economic offences stand as a different class as they affect the economic fabric of the society. In **Directorate of Enforcement v. Ashok Kumar Jain [Directorate of Enforcement v. Ashok Kumar Jain, (1998) 2 SCC 105 : 1998 SCC (Cri) 510]**, it was held that in economic offences, the accused is not entitled to anticipatory bail.”

15. In **Sushila Agrawal and others v. State (NCT of Delhi) and Another reported in (2020) 5 SCC 1**, Constitution Bench of this Court held that while considering an application for grant of pre-arrest bail the Court has to consider the nature of the offence, the role of the person, the likelihood of his influencing the course of investigation, or tampering with evidence or likelihood of fleeing justice. The Court held:-

“92.4. Courts ought to be generally guided by considerations such as the nature and gravity of the offences, the role attributed to the applicant, and the facts of the case, while considering whether to grant anticipatory bail, or refuse it. Whether to grant or not is a matter of discretion; equally whether and if so, what kind of special conditions are to be imposed (or not imposed) are dependent on facts of the case, and subject to the discretion of the court.”

7. Perusal of case file reveals that the petitioner alongwith his co-accused armed with deadly weapons i.e. kirpans and iron rods etc. attacked the injured. They gave multiple injuries to the son of the complainant (injured), out of which 5 injuries are declared to be grievous in nature. Only some of the accused have been arrested and 15 accused are yet to be arrested. As the petitioner was a member of the attacking party, thus, he has played a vital and active role in the commission of offence. The allegations against the petitioner are grave and serious in



nature. As per submissions made by learned State counsel, the investigation is still at a preliminary stage, and custodial interrogation of the present petitioner is necessary to unravel the truth. The learned counsel for the petitioner has failed to demonstrate that the case registered against him is false.

7.1 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.

8. 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 interest(s). 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. It is imperative that every person in the Society can expect an atmosphere free from foreboding & fear of any transgression. 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* [State v. Anil Sharma, (1997) 7 SCC 187 : 1997 SCC (Cri) 1039], the 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 a responsible manner and that those entrusted with the task of disinterring offences would not conduct themselves as offenders.”

9. In view of the gravity of the allegations and nature of offence, since the necessity of custodial interrogation would arise 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 matrix of the case in hand. Moreover, custodial interrogation of the petitioner is necessary for an effective investigation & to unravel the truth. The petition is, thus, devoid of merits and is hereby dismissed.

10. Nothing said hereinabove shall be deemed to be an expression of opinion upon merits of the case/investigation.

(SUMEET GOEL)
JUDGE

7.3.2026
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Whether speaking/reasoned:	Yes/No
Whether reportable:	Yes/No