

**In the High Court of Punjab and Haryana, at Chandigarh****Criminal Misc. No. M-16340 of 2026****Date of Decision: 02.04.2026**

Mohd. Irshad

... Petitioner(s)

Versus

State of Haryana

... Respondent(s)

CORAM: Hon'ble Mr. Justice Surya Partap Singh.Present: Ms. Rosi, Advocate
for the petitioner(s).Mr. Ramender Singh Chauhan, Assistant Advocate General,
Haryana.**Surya Partap Singh, J.**

1. This petition for anticipatory bail is the first petition filed by the petitioner under Section 482 of 'the Bharatiya Nagarik Suraksha Sanhita, 2023'. It has been filed with regard to a case arising out of FIR No. 50 dated 20.03.2022, for the commission of offence punishable under Section(s) 148, 149, 323, 302 and 506 of 'the Indian Penal Code, 1860' and Section(s) 25 of the Arms Act, 1959 Police Station Bicchor, District Nuh, Haryana.

2. The FIR of this case came into being at the instance of 'Sahil hereinafter being referred to as "complainant" only. It was stated by the above named complainant that there was a dispute regarding a piece of land with 'Farooq', 'Irshad' & 'Khalid' etc., and that the litigation with regard to above-mentioned piece of land was in progress. According to complainant, for the measurement of above-mentioned plot four to five days prior to the

incident the revenue official, i.e. 'the Patwari', had visited the spot and carried out the measurements.

3. According to complainant, on 20.03.2022 at about 12.00 noon when the complainant, along with his father, namely 'Akhtar', mother 'Asghari' and sister 'Shabnam', was in the process of constructing a boundary wall, 'Farooq alias Badri', 'Irshad', 'Khalid', 'Hanif', 'Umar Mohd.', 'Ashfaq', 'Parmeena', 'Zubaida' and 'Anisa' carrying bamboo sticks and county-made pistols, in furtherance of conspiracy, arrived at the spot, launched an assault upon them and inflicted injuries on the person of complainant and his family members. It was further stated by the complainant that 'Farooq alias Badri', 'Irshad' and 'Khalid' were carrying country-made pistols in their hands, and they had fired gun-shots with the help of their respective weapons. According to complainant, 'Irshad' had inflicted injury on the person of his mother by using the handle of the country-made pistol, whereas 'Farooq alias Badri' fired gun-shots which injured his father. As per complainant the injury suffered by his father proved to be fatal. It was further stated by the complainant that when they screamed for help, their neighbours rushed to the spot and on their arrival the assailants fled from the spot.

4. It is the case of prosecution that pursuant above-mentioned complaint, formal FIR of this case was lodged and the investigation taken up.

5. **Notice of motion.**

6. Since advance notice has already been served upon the State,

Mr. Ramender Singh Chauhan, Assistant Advocate General, Haryana accepts

notice on behalf of respondent-State. Hence, service of notice upon the State is hereby dispensed with.

7. Heard.

8. It has been contended on behalf of petitioner that that the petitioner is innocent who has been falsely implicated in the present case. According to learned counsel for the petitioner the falsity of allegations contained in the FIR can be gauged from the fact that although the names of ten accused were mentioned in the FIR, but during the course of investigation seven have been exonerated. The learned counsel for the petitioner has further contended that the petitioner has not been arrested in this case and the process for declaring him a proclaimed person has been undertaken by the learned trial Court. According to learned counsel for the petitioner, the petitioner is not residing at the given address where the publication of proclamation had taken place and therefore, the proceedings for proclamation, too, are defective.

9. The learned State counsel has controverted the above-mentioned arguments. According to learned State counsel there are very specific and direct allegations against the petitioner, regarding his involvement in the commission of a serious offence, i.e. murder. It has also been contended by the learned State counsel that the weapon of offence is, yet, to be recovered from the possession of the petitioner, and for that purpose his custodial interrogation is necessary.

10. The record has been perused carefully.

11. A perusal of the record shows that in the present case at the very first moment when the FIR was lodged, the name of petitioner figured

therein. In the FIR a very specific role has been attributed to the petitioner and as per complainant at the time of commission of offence the petitioner was carrying a deadly weapon in his hand. It is also pertinent to mention here that the incident had taken place in the year 2024 and since then the petitioner is absconding. Thus, the conduct of the petitioner, also, speaks against the exercise of any discretion in his favour.

12. With regard to use of discretion for grant of anticipatory bail, the Hon'ble Supreme Court of India 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.

13. The Hon'ble Supreme Court of India 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 above said 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.

14. The Supreme Court of India 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], has observed 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.

15. Similarly, in the case of ‘Gurbaksh Singh Sibbia etc. v. State of Punjab’ 1980 SCC (2) 565, the Hon'ble Supreme Court of India held that:-

- a) The power under Section 438, Criminal Procedure Code, is of an extraordinary character and must be exercised sparingly in exceptional cases only.
- b) 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.
- c) 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.

16. Here it shall not be out of place to mention that the right of custodial interrogation of an accused by the Investigating Agency, is a valuable right and in the given fact-situation if the above-mentioned right is denied to the Investigating Agency it may result into miscarriage of justice, as the Investigating Agency may be deprived of opportunity to collect relevant evidence.

17. Taking into consideration the cumulative effect of all the above-mentioned factors, it is hereby observed that no extraordinary circumstances exist in this case which may warrant the exercise of

jurisdiction vested in this Court, as enshrined under Section 482 of BNSS.
Hence, finding no merits the present petition is hereby **dismissed**.

(Surya Partap Singh)
Judge

April 02, 2026
“DK”

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