



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

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**CRM-M-20052-2026 (O&M)
Decided on: 17.04.2026**

GURNAIB SINGH**.....Petitioner****Versus****STATE OF PUNJAB****.....Respondent****CORAM: HON'BLE MR. JUSTICE SUBHAS MEHLA**

Present: Mr. P.S. Sekhon, Senior Advocate with
Mr. Parshant, Advocate for the petitioner.

Mr. Anup Singh, AAG, Punjab.

Mr. Arshdeep Singh Kler, Advocate for the complainant.

SUBHAS MEHLA, J. (Oral)

1. The present petition has been filed under Section 438 of Cr.P.C. (Section 482 BNSS, 2023) seeking grant of anticipatory bail to the petitioner in case bearing FIR No.154 dated 05.08.2023 under Sections 302, 307, 323, 341, 506, 148, 149, 120-B IPC, 1860 registered at Police Station Samana (Sadar Samana), District Patiala.

2. The FIR in the present case has been registered against the present petitioner on the basis of complaint made by Mandeep Singh on the ground that co-accused Randhir Singh armed with pistol, Gurnaib Singh (the present petitioner) armed with *Gandasi*, Labh Singh armed with *Daang*, Gurdeep Singh, armed with wooden nail *Phatti*, Nirmal Singh armed with *Takua*, Rana Singh armed with *Daang*, Jashanpreet



Singh committed murder of Rajinder Singh and also caused injuries to the complainant-Mandeep Singh.

As per allegations levelled by the complainant, co-accused Randhir Singh brandished his pistol in the air and raised instigation (lalkara). Thereafter co-accused Gurdeep Singh gave an injury on the head of deceased Rajinder Singh with a wooden plank on which nails were fitted. Thereafter co-accused Nirmal Singh gave blow of reverse side of *Takhua* on forehead of complainant and co-accused Ranbir Singh @ Rana gave a stick blow on the right shoulder of the complainant namely Mandeep Singh.

3. Learned counsel for the petitioner contended that there are total eight accused in the present FIR and final report was presented only against 05 of them whereas the present petitioner alongwith other co-accused were declared innocent by the police; later on, the petitioner was summoned as an additional accused by the trial Court under section 319 Cr.P.C., however, no injury has been attributed to the petitioner. It is further contended that as per MLR of deceased Rajinder Singh (Annexure P-2), the deceased sustained only one injury on his head which is attributed to co-accused Gurdeep Singh and as per MLR of complainant Mandeep Singh, he sustained total four injuries out of which none has been attributed to the present petitioner; co-accused namely Nirmal Singh, Ranbir Singh and Randhir Singh have been granted the concession of regular bail by a Coordinate Bench of this Court



(Annexures P-4 to P-6); the petitioner is ready and willing to join the investigation.

4. Notice of motion.

5. Mr. Anup Singh, AAG, Punjab, who is present in Court, accepted notice on behalf of respondent-State and opposed the grant of anticipatory bail to the petitioner while submitting on instructions from ASI-Ranjit Singh, that during the occurrence, the petitioner was armed with a *Gandasi* and formed a part of unlawful assembly. He, however, does not dispute the fact that the present petitioner is not required for investigation or custodial interrogation. Further, learned state counsel fairly admitted that no injury is attributed to the present petitioner; main injury caused to the deceased-Rajender Singh is attributed to his co-accused namely, Gurdeep Singh; three of the co-accused have been granted the concession of regular bail by Coordinate Bench of this Court; and petitioner is having clean and clear antecedents.

6. Learned counsel for the complainant opposes the prayer made on behalf of learned counsel for the petitioner.

7. Heard.

8. Taking into consideration the facts & circumstances of the case and the allegations against the present petitioner that he formed a part of unlawful assembly and was armed with *Gandasi*; injury caused to the deceased namely, Rajender Singh is attributed to co-accused-Gurdeep Singh who is already in custody; none of the injuries inflicted on the



complainant are attributed to the petitioner; this Court is of the considered view that petitioner deserves the concession of relief of anticipatory bail.

9. Grant of Anticipatory bail, in a case, where an accused is summoned as an additional accused under section 319 Cr.P.C. is not barred under the provisions of Cr.P.C. The criteria that is to be taken into consideration while granting anticipatory bail remains same that is laid down in section 438 Cr.P.C. The petitioner, though summoned after being added as an additional accused in the ongoing trial can verily lose his liberty upon his appearance. There is no gainsaying that protection of liberty is one of the most cherished objects of the Constitution as reflected in Article 21 of the Constitution. Such a remedy therefore, cannot be denied. However, it cannot be treated as a straightjacket formula that in each and every case, where accused is summoned as additional accused, he must be released on bail. Grant of anticipatory bail is a matter of discretion of the Court depending upon the peculiar facts and circumstances of each case.

10. A Co-ordinate Bench of this Court in *Baljinder Singh and another v. State of Punjab 2015 (3) RCR (Criminal) 950*, while considering the plea of anticipatory bail to an accused, who was summoned under Section 319 Cr.P.C. for commission of an offence under section 302 IPC, held as under :-



"7. There can, thus, be no doubt that the trial court committed no error in summoning the petitioners as additional accused in the instant case as their names figured in the FIR and specific role has been attributed to them. The question, however, remains whether they are entitled to concession of pre-arrest bail. For considering this question, principles laid down in **Gurbaksh Singh Sibbia etc. v. The State of Punjab AIR 1980 (SC) 1632** need to be recalled. It was held therein that jurisdiction under Section 438 Cr.P.C has to be exercised by wise and careful use of discretion. In case an accused has a reason to believe that he would be arrested for a non bailable offence, he would be entitled to invoke the provisions of Section 438 Cr.P.C. Though no hard and fast rule can be laid down for exercise of this power, it would be taken on facts and circumstances of each case. In the case in hand, since petitioners have been summoned to face trial for offence under Section 302 I.P.C., on their appearance before the court, they have a reasonable apprehension that they would be taken in custody. Thus, plea for anticipatory bail is not misconceived. Article 21 of the Constitution guarantees the right to life and liberty to its citizens. Criminal law derives its source and substance from the Constitution. All other laws are supplementary and incidental to the principles laid down in the Constitution (see **Vikas v. State of Rajasthan's** case (supra) paras 13, 14). Thus, such additional accused who do not intend to defy law and are ready to face trial, their plea for anticipatory bail can be considered, subject to the principles already laid down in Gurbaksh Singh Sibbia's case (supra). Though Section 438 Cr.P.C does not confer a right on such accused to be granted discretionary relief of anticipatory bail, their



*plea would deserve consideration within the available parameters. If appearance of additional accused can be secured and the **court is satisfied that** they would cooperate during the proceedings, their plea for anticipatory bail can be accepted. It also needs to be emphasized that at the stage of Section 319 Cr.P.C., some deposition of prosecution witness(s) is before the court and on consideration of same additional accused are summoned. However summoning under Section 193 Cr.P.C. is only on the basis of material accompanying the report under Section 173 Cr.P.C. On perusal of same, additional accused are arraigned. Thus, such accused are entitled to pray for anticipatory bail on the ground that their role was examined by the investigating agency but they were found innocent."*

11. The present petitioner is not required for any custodial purpose and judicial custody of the petitioner is not required as he is required to face the trial alongwith other co-accused. Since the trial will take time to conclude, the petitioner is directed to appear before the trial Court on the date fixed before the trial Court and if he appears/ surrender before the said Court, the trial Court is directed to release him on interim bail on his furnishing requisite bonds to the satisfaction of the trial Court/Duty Magistrate/Chief Judicial Magistrate concerned.

(SUBHAS MEHLA)
JUDGE

17.04.2026
Sonia Puri

Whether Speaking/Reasoned: YES/NO
Whether Reportable: YES/NO