

2026.PHHC.066851



IN THE HIGH COURT FOR THE STATES OF PUNJAB AND  
HARYANA AT CHANDIGARH

CRM-M-21018-2026 (O&M)

Gurtej Singh @ Gurtej Singh Brar ...Petitioner

Versus

State of Punjab ...Respondent

| Sr. No. | Particulars                                                                              | Details        |
|---------|------------------------------------------------------------------------------------------|----------------|
| 1       | The date when the judgment is reserved                                                   | 29.04.2026     |
| 2       | The date when the judgment is pronounced                                                 | 30.04.2026     |
| 3       | The date when the judgment is uploaded on the website                                    | 30.04.2026     |
| 4       | Whether only operative part of the judgment is pronounced or full judgment is pronounced | Full           |
| 5       | The delay, if any, of the pronouncement of full judgment, and reasons thereof            | Not applicable |

CORAM: HON'BLE MRS. JUSTICE MANISHA BATRA

Present:- Mr. Samay Sandhawalia, Advocate  
for the petitioner.

Ms. Sakshi Bakshi, AAG, Punjab.

Mr. Amaninder Singh Sekhon, Advocate  
for the complainant.

MANISHA BATRA, J.

1. The instant one is the second petition that has been filed by the petitioner under Section 482 of Bharatiya Nagarik Suraksha Sanhita, 2023 for grant of anticipatory bail to him in case arising out of FIR No. 79 dated 17.05.2024, registered under Sections 302 and 34 of IPC (both these sections were deleted and Sections 306 and 201 of IPC were added later on and then

on alteration of charge, Sections 302 and 201 of IPC have been added) at Police Station Jaito Faridkot, District Faridkot.

2. The aforementioned FIR was registered on the basis of a statement made by the complainant Surinder Singh, wherein it was alleged that his niece, Kulwinder Kaur, had been married to the present petitioner approximately 16 years prior to the occurrence. It was alleged that since the inception of the matrimonial relationship, the petitioner had been subjecting the deceased to ill-treatment, including physical assault. It was further alleged that the petitioner was involved in extramarital relationships, which fact was disclosed by the deceased to her parental family. On 16.05.2024, upon receiving information that Kulwinder Kaur had been admitted to a hospital, the complainant reached there and found her in a critical condition. Upon inquiry, the deceased allegedly disclosed that on the said day, the petitioner had thrown her onto the bed, while her mother-in-law caught hold of her arm and then the petitioner, while slapping her, forcibly administered some poisonous substance into her mouth with an intent to kill her. Thereafter, he left the place after snatching her mobile phone. The victim became unconscious and was subsequently taken to the hospital. The victim later on died. Initially, a case under Section 302 IPC was registered. However, during the course of investigation, the offence under Section 302 IPC was deleted and offences under Sections 306 and 201 IPC were added. The petitioner, who had been arrested and remained in custody, was granted the concession of bail by the learned trial Court vide order dated 05.08.2024.

3. As revealed from the record, during the course of trial, the prosecution moved an application seeking alteration of charge, which came to

be allowed by the learned trial Court, vide order dated 23.02.2026, whereby charges under Sections 302 and 201 IPC were ordered to be framed against the petitioner. Apprehending his arrest pursuant to the invocation of the offence under Section 302 IPC, the petitioner moved an application for grant of anticipatory bail before the learned trial Court but the same was dismissed vide order dated 20.03.2026. Aggrieved thereof, the petitioner approached this Court by way of filing a petition bearing number **CRM-M-18317-2026**, which too had been dismissed vide order dated 06.04.2026.

4. Learned counsel for the petitioner has argued that the petitioner had earlier been granted the concession of regular bail in the present case after having remained in custody for a substantial period. It is submitted that the petitioner is now apprehending his arrest consequent to the addition of the offence under Section 302 IPC. No prima facie case for the commission of the aforesaid offence is made out against the petitioner. It is contended that no external injury was found on the body of the deceased, thereby ruling out the possibility of homicidal death. It is further submitted that a thorough investigation has already been conducted and material witnesses have been examined. The statements of the petitioner's 14-year-old son as well as his business partner indicate that the petitioner was not present at his residence at the relevant time when the deceased consumed poison. It is also argued that the petitioner has not misused the concession of bail earlier granted to him. Learned counsel submits that the present petition, despite being second one, is maintainable as the aforesaid aspects were not duly considered by this Court while passing the order in the previous petition. The petitioner is ready to abide by any terms and conditions that may be imposed by this Court upon

him. Hence, it is prayed that the present petition deserves to be allowed and the petitioner deserves to be granted the concession of anticipatory bail. Learned counsel for the petitioner has relied upon the authority cited as ***Sumit vs. State of U. P. and another, 2026 (1) RCR (Criminal) 765*** to support his argument with regard to maintainability of this petition.

5. *Per contra*, learned State counsel, assisted by learned counsel for the complainant, has opposed the petition and submitted that the earlier petition filed by the petitioner was dismissed by this Court by passing a detailed order. It is argued that there is no substantial change in circumstances so as to warrant the filing of the present petition, and thus, the same is not maintainable. It is further argued that, in any case, the appropriate remedy available to the petitioner is to surrender before the learned trial Court and seek regular bail in view of the addition of a graver offence, rather than invoking the jurisdiction of this Court for grant of anticipatory bail. Accordingly, it is prayed that the present petition be dismissed.

6. This Court has heard the rival submissions.

7. The previous petition filed by the petitioner had been dismissed by this Court only on 06.04.2026 and instantly thereafter, this petition has been filed on 16.04.2026. The petition does not disclose any change in circumstances, what to say about any substantial or drastic change. On this very ground, the petition cannot be stated to be maintainable. Even otherwise, the petitioner was extended benefit of regular bail by the learned trial Court, vide order dated 05.08.2024. During the course of trial and as a consequence of allowing of an application for alteration of charge, the learned trial Court has passed an order for framing of charges under Section 302 and 201 of IPC.

In *Manish Jain vs. Haryana State Pollution Control Board : 2022 (1) SCC (Cri) 676*, it was observed by Hon'ble Supreme Court that a person released on bail is already in constructive custody of law and if the law requires him to come back to custody for some specified reason, an application for anticipatory bail apprehending his arrest would not lie since there cannot be any apprehension of arrest by a person already in constructive custody of law. Similar observations were made in the authority cited as *Pradeep Ram vs. State of Jharkhand and another : AIR 2019 SC 3193*, wherein it was held that it is open to the investigating agency to approach the concerned Court seeking cancellation of the bail or for obtaining an order for arrest of the accused on addition of a new offence, which shall be considered on its own merit. Even in *Sumit's* case (supra), which is a recent pronouncement of Hon'ble Supreme Court, it has been held that in respect of a circumstance where after the grant of bail to an accused, further cognizable and non-bailable offences are added, the following options are available to an accused

**(i) the accused can surrender and apply for bail for newly added cognizable and non-bailable offences. In the event of refusal of bail, the accused can certainly be arrested;**

**(ii) the investigating agency can seek order from the court under Sections 437(5) or 439(2) of [Cr.P.C.](#) respectively for arrest of the accused and his custody.**

**(iii) The Court, in exercise of its power under Sections 437(5) or 439(2) of [Cr.P.C.](#) respectively, can direct for taking into custody the accused who has already been granted bail after cancellation of his bail. The Court in exercise of its power under Section 437(5) as well as Section 439(2) respectively can direct the person who**

has already been granted bail to be arrested and commit him to custody on addition of graver and non-cognizable offences which may not be necessary always with order of cancelling of earlier bail.

(iv) In a case where an accused has already been granted bail, the investigating authority on addition of an offence or offences may not proceed to arrest the accused, but for arresting the accused on such addition of offence or offences it needs to obtain an order to arrest the accused from the Court which had granted the bail.

8. In view of the proposition of law laid down in aforecited cases, it is explicit that an application for grant of anticipatory bail in the peculiar circumstance like in this case cannot be stated to be maintainable at all. Accordingly, finding no ground to allow the petition, the same is hereby dismissed.

30.04.2026

*Waseem Ansari*

(MANISHA BATRA)  
JUDGE

*Whether speaking/reasoned*  
*Whether reportable*

*Yes/No*  
*Yes/No*