

2026:PHHC:087240



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

**CRM-M-33312-2026(O&M)
DATE OF DECISION: 10.06.2026**

GOBIND @ JHATKA @ GOBIND KUMAR

...PETITIONER

Versus

STATE OF PUNJAB

... RESPONDENT

CORAM: HON'BLE MR. JUSTICE SANDEEP MOUDGIL

Present: Mr. Naveen Bawa, Advocate for the petitioner(s).
Mr. Satnam Preet Singh Chauhan, DAG, Punjab.

SANDEEP MOUDGIL, J (ORAL)

1. Prayer

This petition has been filed under Section 482 of BNSS, 2023 (Section 438 of CrPC) for the grant of anticipatory bail in the case /FIR No. 137 dated 10.12.2025 for offences U/s 103 of BNS 2023 (302 of IPC 1860), 190 of BNS 2023 (149 of IPC 1860), 191 (3) of BNS 2023 (148 of IPC 1860), 61 (2) of BNS 2023 (120B of IPC 1860), 324 (4) of BNS 2023 (425 of IPC 1860) registered at Police Station Daresi, District Ludhiana (Annexure P-1).

2 Brief Facts of the case as narrated in the FIR reads as under:-

“Statement of Varun Sahni son of Subhash Chand Sahni, resident of House No. 315/14, New Laxmi Puri, Main Road,

Chandani Chowk, PS Salem Tabri, Ludhiana, age approximately 23 years, phone no. 9041025490 that I am residing at the above said address alongwith family. I am running the business of printing press at Village Kaneja, Ludhiana. We are two sisters and three brothers. My third brother namely Arun Sahni age approximately 21 years, who was working with me in the printing press factory. Yesterday, on dated 09.12.2025 at time approximately 9:30/ 10 PM, my brother Arun Sahni after getting free from work came to home on his Auto Rikshaw and at that time there was injury on the head on the backside of the left ear and blood was oozing. I asked the reason for the same, then my brother told that on the way of grain market, Aman in connivance of his companions gave me beatings. On that I said to my brother Arun Kumar that we will ask to the Aman that why did he give the beatings. On that my brother Arun Sahni alongwith his friend Manpreet Singh @ Maan resident of Chitti Colony, Ayush Mishra resident of Salem Tabri and other three friends left in the car of Manpreet Singh @ Maan. On that I also alongwith Vansh, my younger brother Shiva reached Kara Bara Market opposite Chopra Farm on my auto rickshaw by following them then in the market. I stopped my auto rickshaw after seeing Aman and during this my brother Arun Sahni also came alongwith his friends. I asked to Aman that why did you give beatings to my brother Arun Sahni then during this Happy Bind raised the Lalkara that they fly on their own strength and not on others and thereafter, Happy Bind who was armed with dattar, Aman was armed with stick, Gobind @Jhatka was armed with Gandasa, Vinod was armed with Gandasa, Anish was armed with Gandasa and Soni was also armed with stick. Who at the same time, started to give the blows to my brother Arun Sahni and during this, Manoj threw the bricks and Hemant started to give the blows of stick which was in his hand and Happy Bind gave the blow of dattar holding in his hand on the head of my brother and the second blow was given by Vinod with Gandasa on the head which was in his hand and Aman gave the blow of wooden log on the backside of the head of

my brother and my brother fell down on the ground and during this Manoj started to pelt the bricks to my brother. Soni, Anish, Gobind Jhatka and Hemant hit on my auto with their weapons and due to that damage was caused to my auto rickshaw. Apart from them 3/4 other unknown boys who were armed with sticks and sword, I can recognize them by coming in front of me. Somehow, I with the help of my companions manage to get my brother Arun Sahni out of their circle then they also started to give beatings to us and thereafter, we all ran wherever we could save our lives when I reached at home then my brother Arun Sahni had not reached to home, on that I alongwith father, brother Shiva and cousin Gobind Sahni came to the spot at Kara Bara Market in order to search Arun Sahni. We started to search him then my brother was found lying in the street of Kara Bara. We brought him to the Civil Hospital, Ludhiana for treatment, where Doctor checked him and told that my brother Arun Sahni has died. My brother Arun Sahni has been murdered by causing the injuries Aman resident of Mohalla Pir Banda by calling his above companions. Today, I was coming to police station alongwith my friend Love Kush in order to give the information. You have met at ICICI Bank Chowk Sunder Nagar. Statement has been got recorded to you in the present of my friend Love Kush, heard, it is correct. SD/- Varun Sahni.

3. Contentions

On behalf of the petitioner

Learned counsel for the petitioner submits that the fatal injuries suffered by the deceased have been specifically attributed to the co-accused namely Happy Bind, Vinod and Aman, who were allegedly armed with different weapons. The only allegation against the present petitioner is that he was carrying a Gandasa and, along with certain co-accused, had caused

damage to the Auto Rickshaw of the complainant. No specific injury or overt act has been attributed to him.

It is further submitted that the petitioner had no motive or previous enmity with the deceased or his family. It is contended that he has been falsely implicated merely because of his presence at the spot.

Learned counsel argues that except for the statement of the complainant, there is no material to show that the petitioner was armed with a Gandasa. The post-mortem report reveals that the fatal injuries are attributed to the acts allegedly committed by the co-accused, and the weapons allegedly used by them have already been recovered.

Learned counsel for the petitioner undertakes on behalf of the petitioner that the petitioner is ready and willing to join the investigation and cooperate with the investigating officer.

Notice of motion.

On behalf of the State

Learned State Counsel appearing on advance notice on instructions from Investigating officer vehemently opposes the prayer for anticipatory bail and submits that the petitioner has been specifically named in the FIR and attributed an active role in the occurrence i.e. he along with other co-accused persons attacked the auto of the complainant with their weapons due to which the auto rickshaw of the complainant got damaged and when the brother of the complainant was brought to the hospital he was declared dead.

It is contended that the petitioner was part of the unlawful assembly who had come armed with deadly weapons and had shared the common object of the assailants. Merely because no specific injury has been attributed to the petitioner would not absolve him of criminal liability in view of the provisions relating to unlawful assembly and common object.

Learned State counsel further submits that the allegations against the petitioner are duly supported by the statement of the complainant and other prosecution witnesses. The investigation is still at a crucial stage and custodial interrogation of the petitioner may be required for a fair and effective investigation. It is also submitted that the offence is grave in nature, resulting in the death of one person, and the petitioner does not deserve the concession of anticipatory bail. Accordingly, prayer is made for dismissal of the present petition.

4. **Analysis**

The petitioner is specifically named in the FIR and has been attributed a definite role in the occurrence. The material collected during investigation prima facie indicates that the petitioner was part of the unlawful assembly which had assembled armed with deadly weapons. The contention that no specific injury has been attributed to the petitioner cannot, at this stage, be accepted as a ground for grant of anticipatory bail, particularly when the allegations disclose commission of a serious offence resulting in the death of a person and the prosecution case invokes the principle of common intention.

The Apex Court in the case of ***Sumitha Pradeep Vs. Arun Kumar C.K. & Anr. 2022 Live Law (SC) 870*** held that merely because custodial interrogation was not required by itself could not be a ground to grant anticipatory bail. The first and the foremost thing the Court hearing the anticipatory bail application is to consider is the prima facie case against the accused. The relevant extract of the judgment is reproduced here-in-below:-

“It may be true, as pointed out by learned counsel appearing for Respondent No.1, that charge-sheet has already been filed. It will be unfair to presume on our part that the Investigating Officer does not require Respondent No.1 for custodial interrogation for the purpose of further investigation.

Be that as it may, even assuming it a case where Respondent No.1 is not required for custodial interrogation, we are satisfied that the High Court ought not to have granted discretionary relief of anticipatory bail.

We are dealing with a matter wherein the original complainant (appellant herein) has come before this Court praying that the anticipatory bail granted by the High Court to the accused should be cancelled. To put it in other words, the complainant says that the High Court wrongly exercised its discretion while granting anticipatory bail to the accused in a very serious crime like POCSO and, therefore, the order passed by the High Court granting anticipatory bail to the accused should be quashed and set aside. In many anticipatory bail matters, we have noticed one common argument being canvassed that no custodial interrogation is required and, therefore, anticipatory bail may be granted. There appears to be a serious misconception of law that if no case for custodial interrogation is made out by the prosecution, then that alone would be a good ground to grant anticipatory bail. Custodial interrogation can be one of the relevant aspects to be considered along with other grounds while deciding an

application seeking anticipatory bail. There may be many cases in which the custodial interrogation of the accused may not be required, but that does not mean that the prima facie case against the accused should be ignored or overlooked and he should be granted anticipatory bail. The first and foremost thing that the court hearing an anticipatory bail application should consider is the prima facie case put up against the accused. Thereafter, the nature of the offence should be looked into along with the severity of the punishment. Custodial interrogation can be one of the grounds to decline custodial interrogation. However, even if custodial interrogation is not required or necessitated, by itself, cannot be a ground to grant anticipatory bail.”

More so, investigation is still going on in the present case. It is settled proposition of law that power exercisable under Section 438 Cr.P.C., is somewhat extraordinary in character and it is to be exercised in exceptional cases. The Supreme Court in **“State vs. Anil Sharma”;(1997) 7 SCC 187**, held as under:-

“We find force in the submission of the CBI that custodial interrogation is qualitatively more elicitation oriented than questioning a suspect who is well ensconded 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 material 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 needs 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.”

5. **Conclusion:-**

Considering the gravity of the allegations and the need to ensure a fair and thorough inquiry, the Court is of the opinion that custodial interrogation of the petitioner cannot be dispensed with at this stage.

Accordingly, the present petition for anticipatory bail is dismissed.

However, it is made clear that anything stated hereinabove shall not be construed as an expression of opinion on the merits of the case.

(SANDEEP MOUDGIL)
JUDGE

10.06.2026
anuradha

<i>Whether speaking/reasoned</i>	:	<i>Yes/No</i>
<i>Whether reportable</i>	:	<i>Yes/No</i>