



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

**CRM-M No.38075 of 2025 (O&M)
Date of Decision:13.01.2026**

Jyoti

.....Petitioner

Versus

State of Punjab and another

..... Respondents

CORAM: HON'BLE MR.JUSTICE SURYA PARTAP SINGH

Present: Mr. Shubham Goyal, Advocate for the petitioner.

Mr. Eklavya Darshi, DAG, Punjab.

Mr. Krishan Singh Dadwal, Advocate for respondent No.2.

SURYA PARTAP SINGH, J. (Oral):

1. Seeking for the benefit of anticipatory bail, the instant petition has been filed by the petitioner under Section 482 of the Bharatiya Nagarik Suraksha Sanhita, 2023, in a case arising out of FIR No.60 dated 26.04.2025, under Sections 109, 333, 115(2), 3(5) of BNS [Section 103 was added later on vide G.D. No. 28 dated 28.04.2025], Police Station Adampur, District Jalandhar.

2. Briefly stating the fact emerging from record are that the FIR of this case came into being at the instance of 'Sanjeev Kumar' son of 'Jagdish Chand', hereinafter being referred to as 'complainant' only. It was stated by the above named complainant that he and his brother 'Manoj Kumar' lived in adjoining house, and that on 17.04.2025 at about 6.45 P.M he heard commotion in the house of his brother. As per complainant, out of curiosity



when he went to the house of his brother 'Manoj Kumar', he found that 'Rajan Hampal', 'Sunny Tailor' and 'Jyoti' had entered into the house of his brother and were thrashing him brutally. According to complainant, the above named assailants dragged his brother out of his home and inflicted multiple injuries on his person by punching, slapping and killing him. It was further stated by the complainant that when assailants 'Rajan' pushed his brother, his brother fell down on the ground and his head struck against the earthen pot.

3. In addition to above, the complainant has also stated that when he tried to rescue his brother he, too, came under attack and the assailant hurled abuses to him while extending the threat to kill.

4. It is the case of the prosecution that on the basis of above mentioned statement formal FIR of this case, for the commission of offence punishable under Sections 109, 333, 115(2), 3(5) of BNS [Section 103 was added later on vide G.D. No.28 dated 28.04.2025], was lodged and the investigation taken up.

5. Heard.

6. It has been contended on behalf of the petitioner that the petitioner is innocent having no nexus, whatsoever, with the commission of crime, and that she has been falsely implicated in the present case. According to learned counsel for the petitioner the contents of the FIR itself makes it clear that the petitioner was not carrying any weapon at the time of commission of offence and that the CCTV footage being relied upon by the prosecution in itself shows that the petitioner was not present on the spot at the time of occurrence.



7. In addition to above, the learned counsel for the petitioner has also highlighted the fact that there is delay of 9 days in reporting the matter to the police, and that the petitioner has no criminal antecedents, and therefore, she is entitled for the benefit of anticipatory bail.

8. Per contra, the learned State counsel being assisted by the learned counsel for the complainant has contended that the nature of offence allegedly committed by the petitioner is grievous in nature as the injuries inflicted on the person of 'Manoj Kumar', the brother of the complainant, were apparently responsible for his death. As per learned State counsel the presence of petitioner at the time of commission of offence, and her active participation, can be ascertained from the CCTV footage pertaining to the incident in question. As per learned State counsel, in order to fix the responsibility of petitioner in the commission of offence and for collection of evidence, the petitioner is not entitled for the benefit of bail.

9. The record has been perused carefully.

10. A perusal of the record shows that there are several factors which are required to be taken into consideration at this stage. They are:-

- i) that the allegations against the petitioner are for the commission of offence under Section 103 of BNS;
- ii) that *prima facie* presence of petitioner at the time of commission of crime and her active participation is apparent as recorded in the video footage, placed on record in a pen drive in the Court;
- iii) that in view of peculiar nature of offence in order to ascertain



the role of petitioner in the commission of crime her custodial interrogation is required;

- iv) that custodial interrogation of an accused is an important right made available to the investigating agency and if the investigating agency is deprived of above mentioned right in the instant case the investigation may suffer adversely;

11. It is pertinent to mention here that the petitioner is seeking extraordinary remedy by claiming the benefit of anticipatory bail. With regard to such relief, the Hon'ble Supreme Court 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.

12. The Hon'ble Supreme Court in the abovementioned 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 abovesaid 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.

13. Similarly, 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)***, the

Hon'ble Supreme Court of India has held 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.

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

- (1) The power under Section 438, Criminal Procedure Code, is of an extraordinary character and must be exercised sparingly in exceptional cases only.
- (2) 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.
- (3) 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.

15. Taking into consideration the abovementioned facts and circumstances of the case, vis-à-vis the fact that the remedy of anticipatory bail is an extraordinary, it is hereby held that in the given fact situation, if the valuable right of custodial interrogation available to the investigating agency is denied, it will not only hamper the investigation, but may lead to a situation wherein the investigating agency will be precluded from collecting crucial and relevant evidence. Since to elucidate the role of petitioner in the commission of crime, her custodial interrogation is of utmost importance and the same is required by the police, it is hereby held that the petitioner is not entitled for the



benefit of anticipatory bail.

16. In view of above, being devoid of merits, the present petition is hereby dismissed.

17. Pending miscellaneous application(s), if any, shall also stand disposed of.

(SURYA PARTAP SINGH)
JUDGE

13.01.2026
Manoj Bhutani

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