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IN THE HIGH COURT
OF PUNJAB & HARYANA
AT CHANDIGARH

2026.PHHC.027153



CRM-M-54602-2025 (O&M)
Date of decision: 19th February, 2026

Sarabjeet Kaur

...Petitioner

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MRS. JUSTICE MANISHA BATRA

Present: Mr. Ashok Kumar Khunger, Advocate for the petitioner.
Ms. Sakshi Bakshi, Assistant Advocate General, Punjab.

MANISHA BATRA, J (ORAL):-

1. The present petition has been filed under Section 482 of the Bharatiya Nagarik Suraksha Sanhita, 2023 (for short 'BNSS') by the petitioner seeking grant of anticipatory bail in case bearing FIR No. 107 dated 11.07.2024 registered under Sections 308(3), 3(5) of Bharatiya Nyaya Sanhita, 2023 (for short 'BNS') (Offence under Section 308(6) of BNS added and 308(3) deleted later on) at Police Station Sadar Kotkapura, District Faridkot.

2. As per the allegations, Baltej Singh, cousin of the complainant Gurpreet Singh, had been receiving some calls demanding money on the pretext that he had committed rape with someone and would be implicated in a case if he did not give money. Baltej Singh shared this fact with the complainant, who told the victim to strike a deal with the callers and to call them at some place for the purpose of making payment of money.

Accordingly, Baltej Singh, through the phone of his friend Gurtej Singh, struck a deal for a sum of Rs. 2,20,000/- with those persons and arranged a meeting with them at Kotakpura. On reaching there, the victim was called near some school. The present petitioner, along with the co-accused Harpal Singh and Mandeep, reached there in a car and tried to extort money from them. They disclosed that rape was committed upon one Mandeep Kaur. On asking her whereabouts, they admitted that they just wanted to extort money from Baltej Singh after threatening him. After registration of the FIR, investigation proceedings were initiated.

3. As revealed from the record, the petitioner had been arrested and she suffered a disclosure statement admitting her involvement in the crime. The co-accused were also arrested. However, all of them were released on bail on 11.07.2024 on furnishing personal as well as surety bonds qua commission of offence punishable under Section 308(3) of BNS, which was bailable in nature.

4. As per the allegations, subsequently, offence under Section 308 of BNS was deleted and offence under Section 308(6) of BNS was added on 10.06.2025. Apprehending her arrest, the petitioner moved an application for grant of anticipatory bail before the Court of the learned Additional Sessions Judge, Faridkot, which was dismissed vide order dated 20.08.2025.

5. It is argued by learned counsel for the petitioner that she has been falsely implicated in this case due to political rivalry. In fact, the complainant Gurpreet Singh, along with one Baltej Singh, had asked her to negotiate with one Amandeep Kaur in order to avoid registration of a case of rape committed upon her by Baltej Singh. Due to political pressure, the petitioner had made

attempt to contact that girl for the purpose of effecting compromise, but she had bluntly refused. Baltej Singh and Gurtej Singh were offended with her due to that fact. They accompanied by some other persons, opened an assault upon the petitioner and her driver. They were abducted by the complainant, Gurpreet Singh and Baltej Singh and were taken to some unidentified location. They were extended beatings there, and then, to avoid police action, Baltej Singh and Gurtej Singh had implicated her in this case. They had even taken her to the police station. She was kept in police lock-up but was extended the benefit of police bail. The offence under Section 308(6) has been substituted later on. Her custodial interrogation is not required. She is ready to join the investigation. No recovery is to be effected from her. It is, therefore, argued that she deserves to be released on pre-arrest bail.

6. *Per contra*, learned State counsel has argued that there are serious and specific allegations against the petitioner. Her custodial interrogation is required for conducting thorough and proper investigation in the matter after addition of offence punishable under Section 308(6) of BNS. Moreso, the petition is not maintainable as after grant of bail for the offence punishable under Section 308(3) of BNS, she was in constructive custody of law and cannot seek anticipatory bail after addition of any other offence. It is also argued that no extra ordinary or exceptional ground for grant of anticipatory bail is made out in her favour. It is, thus, argued that the petition does not deserve to be allowed.

7. This Court has heard learned counsel for the parties at considerable length.

8. The petitioner had been extended benefit of police bail for commission of offence punishable under Section 308(3) of BNS. Now, offence under Section 308(6) BNS has been added in the FIR. 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. In ***Zubair Ahmad Wani vs. Governor of J & K, Bail Application No. 78 of 2022, decided on 15.07.2022***, the petitioner/accused had been given benefit of interim bail for commission of offence punishable under Section 489-C of IPC. Subsequently, offence under Section 489-D of IPC was added. He moved an application for grant of anticipatory bail, which was dismissed. It was observed that the proper course for the petitioner was to surrender before the Sessions Court and apply for grant of regular bail as he was in constructive custody of law. Reliance was placed upon ***Manish Jain***'s case (supra) and it was further held that there can be no apprehension of arrest by a person, who is already in constructive custody of law. Reliance can also be placed upon 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.

9. The petitioner herein was extended benefit of bail for commission of offence punishable under Section 308(3) of BNS and offence punishable under Section 308(6) of BNS has been added later on. Accordingly, in view of ratio of law laid down in **Manish Jain**'s case and **Juber Wani**'s case (supra), the petitioner is deemed to be in constructive custody of law and as such, in the considered opinion of this Court, since the law now requires her to come back to custody on account of her committing aforesaid offence, hence, an application for grant of anticipatory bail apprehending her arrest would not lie as there can be no apprehension of arrest by a person already in constructive custody of law.

10. In view of the proposition of law laid down in aforecited cases and also keeping in view the gravity of the allegations levelled against the petitioner as well as the attendant facts and circumstances of the case, there is no hesitation in holding that since the petitioner was presumed to be in constructive custody of law, the prayer for grant of pre-arrest bail is not maintainable. Accordingly, finding no merit in the petition, the same is hereby dismissed.

[MANISHA BATRA]
JUDGE

19th February, 2026
Waseem Ansari

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| 1. Whether speaking/ reasoned | : | Yes / No |
| 2. Whether reportable | : | Yes / No |