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IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

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Kuldeep and others

....Petitioners

V/s

State of Haryana and another

....Respondents

Date of Reserve: 19.01.2026**Date of pronouncement: 21.01.2026****Date of Uploading : 21.01.2026****CORAM: HON'BLE MR. JUSTICE SUMEET GOEL**

Present: Mr. Aditya Sanghi, Advocate with
Mr. Sandeep Vashishth, Advocate and
Mr. Saurabh Sharma, Advocate for the petitioners.
Mr. Gurmeet Singh, AAG Haryana.
Mr. Sushil Sheoran, Advocate for respondent No.2.

SUMEET GOEL, J.

1. The present petition is the second attempt under Section 482 of Bharatiya Nagarik Suraksha Sanhita, 2023 (hereinafter to be referred as 'the BNSS') for grant of pre-arrest/anticipatory bail to the petitioners in case bearing FIR No.38 dated 11.03.2015, registered for the offences punishable under Sections 302, 342, 148, 149 of the IPC at Police Station Behal, District Bhiwani, Haryana.

2. Shorn of non-essential details, relevant factual matrix of the *lis* in hand reads thus:

(i) On 11.03.2015, the FIR in question came to be registered on the statement of Ashok Kumar, cousin of the deceased Manish Kumar, alleging that the deceased, namely Manish Kumar was brutally assaulted by

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multiple accused persons including the present petitioners, resulting in his death.

(ii) The allegations disclose a monetary dispute relating to an amount of ₹4,80,000/- allegedly paid for procuring the employment which led to enmity and culminated in the alleged homicidal assault.

(iii) During the course of investigation, the Deputy Superintendent of Police, Siwani, found no sufficient evidence at that stage against the present petitioners. Consequently, they were kept in Column No. 12, Sections 148 and 149 IPC were deleted and a challan was presented on 06.06.2015 only against accused Rajinder son of Mylal and Sunil son of Suresh.

(iv) Subsequently, on an application being filed under Section 319 Cr.P.C., the Court below, vide its order dated 17.09.2015, summoned the present petitioners as additional accused.

(v) The application of the petitioners for grant of anticipatory bail before the Court below i.e. Additional Sessions Judge, Bhiwani, was dismissed vide order dated 25.09.2015.

(vi) Thereafter, the petitioners had approached this Court by way of filing a petition for grant of anticipatory bail i.e. CRM-M-34185-2015, which was dismissed on 06.10.2015, without commenting on the merits.

The relevant part of the said order reads thus:-

“Having heard the learned counsel for the petitioners and after careful perusal of the record of the case, this Court is of the considered opinion that keeping in view the totality of facts and circumstances of the case, petitioners have not been found entitled for pre-arrest bail.

It is a matter of record that petitioners were named in the FIR. Specific allegations have been levelled against all the three petitioners.

This was the reason that the learned trial Court summoned the petitioners

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with the aid of Section 319 Cr.P.C. by passing the appropriate order dated 18.9.2015 (Annexure P-3).

In view of the above and without commenting anything further on merits of the case, lest it should prejudice the rights of either of the parties, no case for anticipatory bail has been made out.

Dismissed. ”

(vii) After the dismissal of the aforesaid anticipatory bail by this Court, the petitioners posed a challenge to the summoning order dated 17.09.2015 before this Court vide CRR-4093-2015, wherein the operation of the summoning order was stayed vide order dated 28.10.2015.

(viii) During the pendency of the revision petition, the trial against the charge-sheeted accused stands concluded on 24.01.2017, resulting in the acquittal of one accused i.e. Sunil and the conviction of other accused i.e. Rajinder, who was sentenced to life imprisonment on 25.01.2017.

(ix) On 01.12.2025, the revision petition was dismissed as withdrawn with liberty to raise all the pleas before the Court below.

(x) The present petition, preferred on 15.12.2025, is stated to be the second petition for grant of anticipatory bail, founded upon the alleged subsequent developments.

3. Learned counsel for the petitioners has iterated that the petitioners are innocent and have been falsely implicated into the present FIR in question on account of previous enmity. Learned counsel has further iterated that during the course of investigation conducted by a senior police officer i.e. the Deputy Superintendent of Police, Siwani, no incriminating material or cogent evidence was found against the petitioners and consequently they were declared innocent and kept in Column No.12 of the challan. Learned counsel has further submitted that even Sections 148 and

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demonstrates the absence of any *prima facie* case against the petitioners. According to learned counsel, the petitioners were subsequently summoned only by virtue of an order passed under Section 319 of Cr.P.C. which itself was challenged and remained stayed by this Court for a considerable period. Learned counsel has emphasized that during the pendency of the said proceedings, the trial against the charge-sheeted accused concluded, resulting in the acquittal of co-accused namely Sunil and the conviction of the main accused namely Rajinder alone. It has canvassed that the petitioners stand on a much better footing than the acquitted co-accused as no challan was ever presented against them. It has been further submitted that there is no eye-witness account in the FIR and as per the prosecution's own version, the complainant has reached the spot after the alleged occurrence. It has been contended that the complainant has made material improvements in his testimony during trial by projecting himself as an eye-witness thereby rendering his version doubtful and unreliable. No recovery of any weapon or incriminating article has been effected from the petitioners and all alleged recoveries have already been made from the co-accused. No specific role or overt act has been attributed to the petitioners except vague and omnibus allegations. It has been further argued that the present petition is not barred merely because it is the second petition, inasmuch as there has been substantial and material change in circumstances particularly the conclusion of the trial, the acquittal of a similarly situated co-accused and the long lapse of time since the registration of the FIR without any misuse of liberty by the petitioners. Learned counsel asserts that the petitioners are willing to join investigation, are not flight risks and undertake not to

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aforementioned submissions, the grant of the instant petition is entreated for.

4. *Per contra*, learned State counsel has opposed the grant of anticipatory bail to the petitioners by arguing that the present petition is not maintainable, as it constitutes a second petition for anticipatory bail, without there being any substantial change in circumstances, thereby failing both on procedural grounds and on merits. Learned State counsel has submitted that the first petition was dismissed by this Court vide detailed order dated 06.10.2015 and neither any liberty was granted nor any prayer was made by the petitioners to file a fresh petition. Accordingly, the State counsel has argued that the instant petition deserves dismissal on this score alone. Learned State counsel, while opposing the plea in hand on merits, submits that the petitioners are specifically named in the FIR and clear allegations have been levelled against them regarding their active participation in the occurrence. Learned State counsel has iterated that the FIR discloses a brutal and pre-planned assault wherein the deceased was wrongfully confined and mercilessly beaten with lathi, danda and iron pipe which resulted in his death. According to learned State counsel, the petitioners were initially kept in Column No.12 during investigation but they were rightly summoned under Section 319 Cr.P.C. by the learned Court below after recording evidence and upon being satisfied that sufficient material existed indicating their involvement in the crime. Furthermore, the acquittal of co-accused does not constitute a substantial change in circumstances particularly when the role of the petitioners stands on a different footing and their summoning has already attained finality. On the strength of aforesaid



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deserve the concession of anticipatory bail and that the present petition deserves to be dismissed.

5. Learned counsel appearing for the complainant has vociferously opposed the prayer for grant of anticipatory bail to the petitioners and has raised submission in tandem with the learned State counsel. Learned counsel has contended that the offence in question pertains to murder committed in furtherance of common intention and the petitioners have been evading arrest for a considerable period of time. According to learned counsel, grant of anticipatory bail in such grave and heinous offences would seriously prejudice the prosecution case and adversely affect the fair course of investigation and trial. On these grounds, the dismissal of the instant petition is canvassed for.

6. I have heard the learned counsel for the rival parties and have gone through the available record of the case.

7. It would be apposite to refer herein to a judgment passed by this Court in a titled as ***Bhisham Singh vs. State of Haryana, 2024(3) RCR(Criminal) 65***, relevant whereof reads as under:-

“11. As an epilogue to the above rumination, the following principles emerge:

I Second/successive anticipatory bail petition(s) filed under Section 438 of Cr.P.C., 1973 is maintainable in law & hence such petition ought not to be rejected solely on the ground of maintainability thereof.

II Such second/successive anticipatory bail petition(s) is maintainable whether earlier petition was dismissed as withdrawn/dismissed as not pressed/dismissed for non-prosecution or earlier petition was dismissed on merits.

III For the second/successive anticipatory bail petition(s) to succeed, the petitioner/applicant shall be essentially/pertinently required to show substantial change in circumstances and



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showing of a mere superficial or ostensible change would not suffice.

IV No exhaustive guidelines can possibly be laid down as to what would constitute substantial change in circumstances as every case has its own unique facts/circumstance. Accordingly, this issue is best left to the judicial wisdom and discretion of the Court dealing with such second/successive anticipatory bail petition(s).

V In case a Court chooses to grant second/successive anticipatory bail petition(s), cogent and lucid reasons are pertinently required to be recorded for granting such plea despite such a plea being second/successive petition(s). In other words, the cause for a Court having successfully countenanced/entertained such second/successive petition(s) ought to be readily and clearly decipherable from the said order passed.

VI Once a plea for anticipatory bail has been dismissed as withdrawn/dismissed as not pressed/dismissed for non-prosecution or dismissed on merits by the High Court, no second/successive anticipatory bail petition(s) shall be entertained by a Sessions Court.”

8. Indubitably, the first petition (for grant of anticipatory bail) preferred by the petitioners was dismissed by a Coordinate Bench of this Court way back on 06.10.2015 after due consideration of the facts and circumstances of the case. Though it is a settled proposition of law that the principle of *res judicata* does not strictly apply to bail matters yet a successive bail petition is maintainable only upon demonstration of a substantial and material change in circumstances. The onus to establish such change squarely lies upon the petitioner(s). In the present case, there is no substantial change *nay* any change in circumstances which may weigh, in favour of entertaining the instant second petition for anticipatory bail. *Ergo*, the instant petition deserves dismissal on this score alone.

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9. The gravamen of the allegations in the present case pertains to the commission of a heinous offence of murder, punishable under Section 302 of IPC. The FIR discloses that the deceased was allegedly confined and subjected to a brutal assault using lathi, danda, iron pipe and electric wire leading to the death of one Manish Kumar. Although the petitioners were initially kept in Column No.12 during the course of investigation, the record reflects that they were summoned subsequently as additional accused under Section 319 Cr.P.C. by the Court below. The power under Section 319 Cr.P.C. is an extraordinary power, to be exercised sparingly and only when the Court is satisfied that cogent and convincing evidence exists against a person sought to be summoned. The contention raised on behalf of the petitioners that there is no eye-witness account in the FIR and the complainant has allegedly improved his version during trial involves questions relating to appreciation and evaluation of evidence which fall squarely within the domain of trial and cannot be adjudicated at the stage of consideration of anticipatory bail. Furthermore, the plea that a similarly situated co-accused has been acquitted also does not, by itself, constitute a ground for grant of anticipatory bail. In the considered opinion of this Court, parity cannot be claimed as a matter of right particularly when the petitioners have been summoned under Section 319 Cr.P.C. after recording of evidence. Besides, the acquittal of co-accused cannot enure to the benefit of the petitioners, who never submitted themselves to the jurisdiction of the Court nor faced trial, for the benefit of acquittal accrues only to those accused who subject themselves to the process of law and are tested on evidence. The benefit of acquittal arises only after an accused submits to the process of law. Moreover, the prolonged evasion of the petitioners from the

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process of law weighs heavily against the exercise of discretion in their favour under the provisions governing anticipatory bail. Furthermore, the first petition was dismissed on 06.10.2015 and the instant petition has been preferred on 15.12.2025 i.e. after a gap of approximately 10 years. It is evident that the petitioners have deliberately evaded the process of law for over 10 years. The conduct of the petitioners in avoiding arrest for such a prolonged period without any reasonable cause must be considered while adjudicating this second petition. The process of justice is meant to treat every individual in a manner which is equitable and fairly. However; if the accused chooses to employ irregular and convoluted tactics, including undue delay, strategically aimed at frustrating lawful proceedings/investigation, it tantamount to an abuse of the process of justice. While liberty and dignity of an individual must be held high no one can be permitted to subvert or derail the process of justice. Protracted absence, eluding the process of law and abrupt repetition of pleas for pre-arrest bail, in absence of convincing reason(s) is certainly not an act/behaviour which calls for sympathy/indulgence of the Court. The hiatus of more than 10 years on part of the petitioners (herein) is inexplicable *nay* contumacious. Therefore, the conduct of the petitioners when examined in the backdrop of the nature/severity of allegations made against the petitioners, clearly dis-entitles them to the grant of anticipatory bail.

10. Furthermore, no fresh substantial change in circumstances have been brought forward which would indicate that the petitioners are entitled to maintain his second petition for grant of anticipatory bail. Concededly, the order dated 06.10.2015, whereby the first petition for anticipatory bail

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before the Hon'ble Supreme Court. The said order, therefore, has attained finality. In the absence of any challenge to the earlier order, the petitioners cannot now seek reconsideration of the same relief unless a clear and substantial change in circumstances is demonstrated which, in the present case, is conspicuously absent. It is well-settled that anticipatory bail is an extraordinary remedy which is to be granted only when the Court is satisfied that the accused has acted *bona fide* and that no custodial interrogation is necessary. From the entire factual conspectus brought forward in the present petition, no fresh ground or circumstance is made out so as to enable the petitioners to file and maintain the second anticipatory bail petition.

11. In view of the prevenient ratiocination, it is ordained thus:

- (i) The petition in hand is devoid of merits and is hereby dismissed.
- (ii) Any observations made and/or submissions noted hereinabove shall not have any effect on merits of the case and the investigating agency as also the trial Court shall proceed further, in accordance with law, without being influenced with this order.
- (iii) Pending application(s), if any, shall also stand disposed of.

(SUMEET GOEL)
JUDGE

January 21, 2026

Ajay

Whether speaking/reasoned:

Yes/No

Whether reportable:

Yes/No