

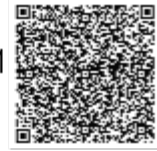


CRM-M-39328-2025

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IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

2025:PHHC:093851



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Date of decision:24.07.2025

Vikas Tomar @ Vikash Tomar

... Petitioner

Vs.

State of Haryana

... Respondent

CORAM: HON'BLE MRS. JUSTICE MANISHA BATRA

Present: Mr. Abhimanyu Singh, Advocate for the petitioner.

Mr. Apoorv Garg, Additional Advocate General, Haryana.

Ms. Rosi, Advocate for the complainant.

...

Manisha Batra, J. (Oral).

1. The instant petition has been filed under Section 482 of the BNSS seeking grant of anticipatory bail to the petitioner in case arising out of FIR No.258, dated 07.07.2025, under Sections 299, 3(5), 61(2) of BNS and Section 2 of the Prevention of Insult to National Honours Act, 1971 (Sections 196, 238 of the BNS were added lateron), registered at Police Station Bilaspur, District Gurugram.

2. As per allegations on 07.07.2025, on receipt of an information about National Flag being hoisted on a Mosque being removed and some other flag being erected by some persons, a police party immediately rushed towards the spot and was informed by the complainant that at around 11:15

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A.M., 2-3 unsocial elements had removed National Flag and had thrown it. He disclosed the names of three of the miscreants and also provided an audio and video recording. The persons as named by him were apprehended and arrested. During investigation, it was revealed that accused Vikas had made a call to the petitioner on his mobile phone at the time when the flag was being removed. The video recording of the incident had been done by the complainant and he handed over the same to the police. It was revealed that it was in connivance with the present petitioner that the co-accused had removed National Flag from the spot. As such, he was nominated as an accused. Apprehending his arrest, the petitioner moved an application for grant of anticipatory bail which was dismissed by the Court of learned Additional Sessions Judge, Gurugram vide order dated 15.07.2025.

3. It is argued by learned counsel for the petitioner that he has been falsely implicated in this case. He had no role to play in the entire incident. He was not even named in the FIR and has been named by the co-accused. Co-accused have been extended benefit of regular bail. His custodial interrogation is not required. No recovery is to be effected from him. He is ready to join investigation. He has clean antecedents. It is, therefore, urged that he deserves to be released on bail.

4. Notice of motion.

5. Mr. Apoorv Garg, learned Additional Advocate General, Haryana has advanced notice of the petition and is ready to argue the matter. Power of Attorney on behalf of the complainant has also been filed. Learned State counsel assisted by learned counsel for the complainant has argued that there are serious and specific allegations against the petitioner who with an

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intent to create communal tension in the vicinity, had got the National Flag hoisted in the Mosque of village Uton removed and instead thereof, had furled a saffron flag in place of the same with an intent to cause hurt to religious feelings of the members of muslim community. He is even shown to have made conversation with the co-accused when they were involved in removing the National Flag and hoisting some other flag. There are specific allegations against the petitioner. For conducting a deeper probe, custodial interrogation of the petitioner is must. It is, therefore, argued that the petition does not deserve to be allowed.

6. This Court has heard the rival submissions made by learned counsel for the parties carefully.

7. The allegations against the petitioner are not vague or general in nature but are specific and substantiated by initial investigation, including purported conversations between the petitioner and the co-accused during the commission of the alleged act. The gravity of the offence and its potential impact on public order and communal peace cannot be overlooked at this stage. No extraordinary or exceptional circumstance has been brought on record by the petitioner that would warrant the grant of pre-arrest bail, particularly in light of the serious communal and constitutional implications of the alleged conduct. It is well settled that custodial interrogation of a suspected person is qualitatively more elicitation oriented than questioning a suspect who is well ensconced with a favourable order under Section 482 of the BNSS. Many useful information can be disinterred during custodial interrogation. Keeping in view the nature of allegations as levelled against the petitioner coupled with the fact that no exceptional or sparing



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circumstance for grant of pre-arrest bail in favour of the petitioner is made out and the fact that deeper and proper probe is required to be conducted in the manner, this Court is of the considered opinion that the custodial interrogation of the petitioner is must and no ground for grant of anticipatory bail is made out.

8. Accordingly, the petition is dismissed.

9. It is, however, clarified that observations made hereinabove shall not be construed as an expression of opinion on the merits of the case.

10. Since the main petition has been dismissed, pending application, if any, is rendered infructuous.

(MANISHA BATRA)
JUDGE

24.07.2025*harjeet*

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