

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-6901-2025
Reserved on: 13.02.2025
Pronounced on: 19.02.2025

Arun Kumar ...Petitioner

Versus

State of Haryana ...Respondent

CORAM: HON'BLE MR. JUSTICE ANOOP CHITKARA

Present: Mr. M.D. Khan, Advocate and
Mr. Ravi Kumar, Advocate
for the petitioner.

Mr. Naveen Kumar Sheoran, D.A.G., Haryana

ANOOP CHITKARA, J.

FIR No.	Dated	Police Station	Sections
231	09.12.2024	Sector-17 Faridabad, District Faridabad	303(2) BNS

1. The petitioner apprehending arrest in the FIR captioned above has come up before this Court under Section 482 of Bharatiya Nagarik Suraksha Sanhita, 2023, [BNSS], seeking anticipatory bail.

2. In paragraph 14 of the bail petition, the accused declares that he has no criminal antecedents. However, as per paragraph 8 of the status report, the accused has the following criminal antecedents:

Sr. No.	FIR No.	Dated	Offenses	Police Station
1.	147	12.04.2020	188 IPC, 56 of DM Act, 2005 and 61/1/14 of Excise Act	DLF Phase-III, District Gurugram

3. The facts and allegations are being taken from translated copy of the FIR as Annexure P-2, which reads as follows:

“To, the Incharge Police Chowki Sector 16 Faridabad, request that I am Sahiram son of Mishri, resident of village Khedli Lala, P.S Sohna, District Gurugram. On 08-12-2024, I was coming from my village to get household goods from Sector 16 Army Canteen and came by bus till Ballabhgarh and from Ballabhgarh I took an auto and got down at RG

(Old Chowk) Chowk Red Light Faridabad and when I started paying the fare to the auto driver, I noticed that my purse kept in my pocket was missing. My Punjab National Bank ATM card, Army Canteen card, Senior Citizen Card and about 800 rupees cash were in my purse. Some unknown person stole my purse and the above items kept in the purse. Sir, I request you to registered a case of theft of my purse. And my stolen goods should be recovered.”

4. The petitioner's counsel prays for bail by imposing any stringent conditions and contends that further pre-trial incarceration would cause an irreversible injustice to the petitioner and his family.

5. The State's counsel opposes bail and refers to the status report.

6. It would be appropriate to refer to the following portions of the status report, which read as follows:

“5. That the role of the petitioner in this case is that the petitioner along with co-accused had stolen the wallet carrying ATM Card, Army Canteen Card, Senior Citizen Card and about Rs. 800/- cash and withdrawn the cash by using the stolen ATM card of the complainant. The petitioner and co-accused also purchased the household articles from money by using the ATM card of the complainant.”

REASONING:

7. Pre-trial incarceration should not be a replica of post-conviction sentencing. The evidence might be prima facie sufficient to launch prosecution or to frame charges, but this Court is not considering the evidence at that stage but is analyzing it for the stage of anticipatory bail. An analysis of the above does not justify custodial interrogation or pre-trial incarceration.

8. Given the above, the penal provisions invoked coupled with the prima facie analysis of the nature of allegations and the other factors peculiar to this case, there would be no justifiability for custodial interrogation or the pre-trial incarceration at this stage. Without commenting on the case's merits, in the facts and circumstances peculiar to this case, and for the reasons mentioned above, the petitioner makes a case for bail.

9. Given above, provided the petitioner is not required in any other case, the petitioner shall be released on anticipatory bail in the FIR captioned above subject to furnishing bonds to the satisfaction of the Arresting Officer, and if the matter is before a

Court, then the concerned Court and due to unavailability before any nearest Ilqa Magistrate/duty Magistrate. Before accepting the surety, the concerned Officer/Court must be satisfied that if the accused fails to appear, such surety can produce the accused.

10. While furnishing a personal bond, the petitioner shall mention the following personal identification details:

1.	AADHAR number	
2.	Passport number (If available) and when the attesting officer/court considers it appropriate or considers the accused a flight risk.	
3.	Mobile number (If available)	
4.	E-Mail id (If available)	

11. This order is subject to the petitioner's complying with the following terms.

12. The petitioner is directed to join the investigation within seven days of uploading this order on the official webpage of the High Court of Punjab and Haryana and as and when called by the Investigator. The petitioner shall be in deemed custody for Section 27 of the Indian Evidence Act, 1872/ Section 23 of BSA, 2023. The petitioner shall join the investigation as and when called by the Investigating Officer or any Superior Officer and shall cooperate with the investigation at all further stages as required. In the event of failure to do so, the prosecution will be open to seeking cancellation of the bail. During the investigation, the petitioner shall not be subjected to third-degree, indecent language, inhuman treatment, etc.

13. The petitioner shall abide by all statutory bond conditions and appear before the concerned Court(s) on all dates. The petitioner shall not tamper with the evidence, influence, browbeat, pressurize, induce, threaten, or promise, directly or indirectly, any witnesses, Police officials, or any other person acquainted with the facts and circumstances of the case or dissuade them from disclosing such facts to the Police or the Court.

14. In case the Investigator/Officer-In-Charge of the concerned Police Station arraigns another section of any penal offense in this FIR, and if the new section prescribes a maximum sentence that is not greater than the sections mentioned above, then this bail order shall be deemed to have also been passed for the newly added section(s). However, suppose the newly inserted sections prescribe a sentence exceeding the maximum sentence prescribed in the sections mentioned above; then, in that case, the Investigator/Officer-In-Charge shall give the petitioner notice of a minimum of seven days, providing an opportunity to avail the remedies available in law.

15. This bail is conditional, and the foundational condition is that if the petitioner indulges in any non-bailable offense, the State may file an application for cancellation of this bail before the Sessions Court, which shall be at liberty to cancel this bail.
16. The concerned trial court is authorized to delete, modify, or relax any of the above conditions and shall be competent to do so in accordance with the law.
17. Any observation made hereinabove is neither an expression of opinion on the case's merits nor shall the trial Court advert to these comments.
18. A certified copy of this order would not be needed for furnishing bonds, and any Advocate for the Petitioner can download this order along with case status from the official web page of this Court and attest it to be a true copy. If the attesting officer wants to verify its authenticity, such an officer can also verify its authenticity and may download and use the downloaded copy for attesting bonds.
19. **Petition allowed** in terms mentioned above. All pending applications, if any, stand disposed of.

(ANOOP CHITKARA)
JUDGE

19.02.2025

Jyoti-II

Whether speaking/reasoned: Yes
Whether reportable: No.