



103

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

**CRM-M No.1340 of 2025
Date of Decision: 14.01.2025**

Santosh Kaur**..... Petitioner****Versus****State of Punjab****..... Respondent****CORAM : HON'BLE MR. JUSTICE RAJESH BHARDWAJ**

Present: Mr. Gursimran Singh Madaan, Advocate
for the petitioner.

RAJESH BHARDWAJ, J.

1. Present second petition has been filed praying for the grant of pre-arrest bail to the petitioner in case bearing FIR No.124, dated 12.06.2024, under Sections 420, 419, 465, 467, 471, 120-B of IPC, registered at Police Station Sadar Ludhiana, District Police Commissionerate, Ludhiana (Annexure P-1). Further prayer has been made for staying the arrest of the petitioner and direction be issued to release the petitioner on ad-interim bail during the pendency of the present petition.

2. As evident from the facts, the petitioner earlier approached this Court by way of filing **CRM-M No.50929 of 2024** praying for the grant of anticipatory bail, however after hearing learned counsel for the petitioner at length, he was allowed to withdraw the petition with liberty



to avail alternative remedy as available to the petitioner under the law vide order dated 11.12.2024.

3. Learned counsel for the petitioner has submitted that the petitioner has been falsely and frivolously implicated in the present case. He has submitted that the petitioner earlier approached the Court of learned Additional Sessions Judge, Ludhiana praying for the grant of anticipatory bail, however the same was declined by the learned Additional Sessions Judge, Ludhiana vide order dated 22.08.2024. Thereafter being aggrieved the petitioner approached this Court praying for the grant of anticipatory bail by way of filing CRM-M No.50929 of 2024, which was ordered to be dismissed as withdrawn vide order dated 11.12.2024. He has relied upon the decision rendered by the Hon'ble Apex Court in '**Arnesh Kumar vs. State of Bihar and another**' (2014) **8 SCC 273** and has submitted that the present second petition is maintainable.

4. Notice of motion.

5. On asking of the Court, Mr. Tarun Aggarwal, Sr. DAG, Punjab appears and accepts notice on behalf of the respondent-State. He however has opposed the submissions made by learned counsel for the petitioner. He has submitted that the petitioner is the beneficiary and has sold the plot through fake owners. He has submitted that the land involved was sold to several persons. It has been submitted that the investigation would be adversely effected, if the petitioner is granted the



concession of anticipatory bail and thus, the present petition deserves to be dismissed.

6. The Court has heard learned counsel for the parties and perused the record with their able assistance.

7. It is apparent that the present petition is the second petition filed by the petitioner. Learned counsel for the petitioner has relied upon the judgment passed by Hon'ble the Supreme Court in '**Arnesh Kumar vs. State of Bihar and another**' (2014) 8 SCC 273. Earlier petition filed by the petitioner was heard at length and when the Court was not inclined, the same was withdrawn with liberty to the petitioner to avail the alternative remedy in accordance with law. Even if the present petition is the second petition, the Court does not reject the same on its maintainability, however the earlier petition was also declined to be on merits and this petition is also to be weighed on merits. The FIR in the present case was registered on the basis of secret information and during the investigation, it was revealed so far that the land has been sold by way of fake sale deeds and the petitioner is also the beneficiary of the same. The investigation is at threshold.

8. For the consideration of anticipatory bail, the statutory parameters are given under Section 482 (1) & (2) BNSS, which reads as under:-

“Direction for grant of bail to person apprehending arrest:

- 1. When any person has reason to believe that he may be arrested on an accusation of having committed a non-bailable offence, he may apply to the High Court or the Court of Session for a direction*



under this section; and that Court may, if it thinks fit, direct that in the event of such arrest, he shall be released on bail.

2. *When the High Court or the Court of Session makes a direction under sub-section (1), it may include such conditions in such directions in the light of the facts of the particular case, as it may think fit, including-*
- (i) a condition that the person shall make himself available for interrogation by a police officer as and when required;*
 - (ii) a condition that the person shall not, directly or indirectly, make any inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade him from disclosing such facts to the Court or to any police officer;*
 - (iii) a condition that the person shall not leave India without the previous permission of the Court;*
 - (iv) such other condition as may be imposed under sub-section (3) of section 480, as if the bail were granted under that section."*

9. As per the law settled by the Hon'ble Supreme Court, in ***Gurbaksh Singh Sibbia Vs. State of Punjab, AIR 1980 SC 1632***, while granting anticipatory bail, the Court is to maintain a balance between the individual liberty and the interest of society. However, the interest of the society would always prevail upon the right of personal liberty. The relevant part of the judgment is as follows:-

"31. In regard to anticipatory bail, if the proposed accusation appears to stem not from motives of furthering the ends of justice but from some ulterior motive, the object being to injure and humiliate the applicant by having him arrested, a direction for the release of the applicant on bail in the event of his arrest would generally be made. On the other hand, if it appears likely, considering the antecedents of the applicant, that taking advantage of the order of



anticipatory bail he will flee from justice, such an order would not be made. But the converse of these propositions is not necessarily true. That is to say, it cannot be laid down as an inexorable rule that anticipatory bail cannot be granted unless the proposed accusation appears to be actuated by mala fides; and, equally, that anticipatory bail must be granted if there is no fear that the applicant will abscond. There are several other considerations, too numerous to enumerate, the combined effect of which must weigh with the court while granting or rejecting anticipatory bail. The nature and seriousness of the proposed charges, the context of the events likely to lead to the making of the charges, a reasonable possibility of the applicant's presence not being secured at the trial, a reasonable apprehension that witnesses will be tampered with and "the larger interests of the public or the state" are some of the considerations which the court has to keep in mind while deciding an application for anticipatory bail. The relevance of these considerations was pointed out in State v. Captain Jagjit Singh (1962) 3 SCR 622, which, though, was a case under the old Section 498 which corresponds to the present Section 439 of the Code. It is of paramount consideration to remember that the freedom of the individual is as necessary for the survival of the society as it is for the egoistic purposes of the individual. A person seeking anticipatory bail is still a free man entitled to the presumption of innocence. He is willing to submit to restraints on his freedom, by the acceptance of conditions which the court may think fit to impose, in consideration of the assurance that if arrested, he shall be enlarged on bail."



10. The Hon'ble Supreme Court in *State Vs. Anil Sharma*, (1997) 7SCC 187, held as under:-

“6.We find force in the submission of the CBI that custodial interrogation is qualitatively more elicitation oriented than questioning a suspect who is well ensconced with a favorable order under Section 438 of the Code. In a case like this effective interrogation of a suspected person is of tremendous advantage in disinterring many useful informations and also materials which would have been concealed. Success in such interrogation would elude if the suspected person knows that he is well protected and insulated by a pre-arrest bail order during the time he is interrogated. Very often interrogation in such a condition would reduce to a mere ritual. The argument that the custodial interrogation is fraught with the danger of the person being subjected to third-degree methods need not be countenanced, for, such an argument can be advanced by all accused in all criminal cases. The Court has to presume that responsible police officers would conduct themselves in a responsible manner and that those entrusted with the task of disinterring offences would not conduct themselves as offenders.”

11. Weighing the facts of the case on the anvil of the law settled, it is apparent that the complicity of the petitioner has been prima facie found. Needless to say, the investigation is at threshold and in the facts and circumstances, custodial interrogation of the petitioner would be essential and granting anticipatory bail to the petitioner at this stage would scuttle the ongoing investigation.



12. In view of the overall facts and circumstances of the case, this Court does not find any ground for exercising its extraordinary jurisdiction in favour of the petitioner and thus, the present petition is hereby dismissed. Nothing said herein shall be treated as an expression of opinion on the merits of the case.

14.01.2025

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(RAJESH BHARDWAJ)
JUDGE

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