

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-2443-2025
Reserved on: 15.02.2025
Pronounced on: 28.02.2025

Yunus ...Petitioner

Versus

State of Haryana ...Respondent

CORAM: HON'BLE MR. JUSTICE ANOOP CHITKARA

Present: Mr. Baljeet Beniwal, Advocate
for the petitioner.

Mr. Aashish Bishnoi, DAG, Haryana.

ANOOP CHITKARA, J.

FIR No.	Dated	Police Station	Sections
595	25.12.2024	City Palwal, District Palwal	303, 61 of BNS (Sections 338, 336(3), 340(2) of BNS added later on)

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 16 of the bail petition, the accused declares that he has no criminal antecedents.
3. The facts and allegations are being taken from the status report filed by the State, which reads as follows:

“2. That brief facts of the case are that on 24.12.2024 at about 8:30 P.M, while on patrolling duty SHO P.S. City, Palwal spotted a truck/ tipper laden with gravel (crushed stones), both its front and rear number plates were concealed by applying grease, on cleaning the number plates the registration number of the truck was found to be HR-38-AB-5549. Truck was challaned and mobile number as disclosed by its driver- petitioner i.e. 9050566138, 9813224202 was made part of record. Truck was impounded, DD entry no. 48 dt. 24.12.2024 to this effect was recorded at P.S. City, Palwal. Ignition key of truck was retained by SHO and same was parked in the compound of Bus Stand abutting police post Bus Stand, Palwal. Since the truck was laden with minerals, there was no document to carry it, to verify the source of material, Mining officer concerned was contacted, who along with police team

reached the spot on the night of 24.12.2024 itself, however, truck was found missing and it was stolen by petitioner by using master key. For stealing the truck from lawful possession of police.”

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 their 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:

“4. That after lodging the FIR, the investigation was set into the motion and during the course of investigation, it was found that on the night of 24.12.2024 petitioner was transporting crushed stones without any permission in the truck whose number plates were smeared with grease. Truck upon being impounded was parked near the police picket, DD entry (no. 48 dt. 24.12.2024) in this context was made, however, by using the master key petitioner had stolen the vehicle and his act was captured in the CCTV installed in the vicinity. It is further submitted that taking away the truck in a clandestine manner which upon being detained was in lawful possession of police amounts to offence of theft. Not only that petitioner in connivance with the officials of department of Mining and Geology prepared fake receipts to give an impression that on the same night truck was in the area of "Chinawara", Rajasthan. It is also submitted that during investigation truck was recovered from the area of village Jai Singh Pura, District Nuh, it was empty and the loaded stones were disposed-of.”

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. This order shall come into force from the time it is uploaded on this Court's official webpage.

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 Ilaqa 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. 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.

14. This bail is conditional, and the foundational condition is that if the petitioner indulges in any non-bailable offense, the State shall file an application for cancellation of this bail before the Sessions Court, which shall be at liberty to cancel this bail.

15. Any observation made hereinabove is neither an expression of opinion on the case's merits nor shall the trial Court advert to these comments.

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16. 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.

17. **Petition allowed** in terms mentioned above. All pending applications, if any, stand disposed of.

(ANOOP CHITKARA)
JUDGE

28.02.2025
Jyoti Sharma

Whether speaking/reasoned: Yes
Whether reportable: No.