

2025.PHHC:050007



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

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**CRM-M-14380-2025
DECIDED ON: 27.03.2025**

VIJAY KUMAR

.....PETITIONER

Versus

STATE OF HARYANA

.....RESPONDENT

CORAM: HON'BLE MR. JUSTICE SANDEEP MOUDGIL

Present: Mr. Kanwaljit Singh, Sr. Advocate with
Mr. Sukhdeep Singh, Advocate and
Mr. Sanjeev Majra, Advocate for the petitioner.

SANDEEP MOUDGIL, J (ORAL)**1. Relief sought**

The jurisdiction of this Court has been invoked under Section 482 BNSS seeking pre-arrest bail in case FIR No.05 dated 08.12.2021 under Sections 167,218,420,467,468,471,120-B IPC registered at P.S Anti Corruption Bureau, District Rohtak.

2. Prosecution story setup in the present case as per the version in the FIR as under:-

“Sir, the facts of the case are as follows that Sh. Parvesh Kumar S/o Sh. Rajender Singh R/o Shankar Garden, Bahadurgarh, Tehsil & District Jhajjar had filed a complaint on dated 28.10.2020 to Hon'ble Financial Commissioner, against Dr. Rajkumar Bhooriya, District

Regional Officer (DRO) S.K. Branch Kanungo, Sh. Devender Singh & office Kanungo, Tehsil & District Sonipat. The Hon'ble Financial Commissioner wrote a special letter to A.D.G.P.I. C.I.D., Panchkula demi official letter No. R-4-2020 on the aforesaid complaint while taking their attention on the said complaint & desired that investigation in the above complaint be done by some senior officer & furnish report along with recommendation. The report in the complaint was presented by Additional Director General of Police, Intelligence Department, Haryana vide its letter No. 1424 dated 22.02.2021. The investigation in the above complaint was got conducted by Sh. Sandeep D.S.P., Chief Minister, Flying Squad, Rohtak. On perusal of revenue record by the IO during investigation, it was found that disputed land is the raqba of village Sultanpur, District Sonipat, which comes beside Kism Hospital on Bahalgarh road, this land is about 12 acres, which was purchased by Madan Mohan S/o Sh. Hetram S/o Sh. Sitaram R/o Amritsar Punjab from Ram Nath & others R/o Rathdhana, Sonipat in the year 1966 itself. Whose Sale Deed No. 2017 dated 07.02.1966 & mutation No. 774,774 dated 25.05.1970. After the death of Madan Mohan on dated 28.05.1994, mutation No. 2524 dated 28.03.2006 was sanctioned in the name of his wife namely Smt. Santosh & son namely Narender on basis of the inheritance of the land. Till date, farming is done on the land & Sh. Deepak S/o Sh. Umed Singh, caste Jaat R/o Joshi District Sonipat does farming since the year 2012. Prior to this, the father of Deepak namely Sh. Umaid Singh used to do farming since the year 1982. Sh. Umaid Singh Sh. Deepak have been giving the amount fetched from the output to Sh. Narender S/o Late Sh. Madan Mohan, R/o Pitampura, New Delhi. It has been revealed from the investigation that presently, the original heir of this land is Sh. Narender Aggarwal S/o

Late Sh. Madan Mohan R/o Lok Vihar, Pitampura, New Delhi, the land mafias & thugs have their evil eye on this land due to its prime location since a long time. Therefore, one person or the other comes up by projecting themselves either as legal heir of Madan Mohan or Madan Mohan himself after getting prepared a forged sale deed & approaches the Tehsil office or revenue officials to establish their claim over this land. 5 mutations have been registered in respect of this disputed land. It became clear from the aforesaid investigation that no material documentary evidence was taken as a basis at the time of entering the mutations by the revenue officials. From 2006 till today, no special attention was paid to the ownership of the land by any revenue court or investigating officers, so the investigation was focused only on the names recorded in the revenue records for the sake of formality and taking decisions without hearing the complainant and the appellant party & giving decisions in favour of new persons by repeatedly cancelling the mutations without any concrete evidence points out towards the malafide intention & collusion with the officials associated with revenue department. Several Madan Mohans his legal heirs were prepared by the land mafias in the greed to usurp/grab this land in the above matter, who used to file their suits by taking undue advantage of the incompetency of administration so that at some point the original owner is forced/prompted to sell the land at much lower price in comparison to its present market value & goes away. Sandeep D.S.P., Chief Minister, Flying Squad, Rohtak, has recommended registration of FIR U/s 420, 467, 468, 471 & 120B IPC against all the revenue officials upholding the order of cancellation of Mutation No. 3258 in the name of original legal heir of this land i.e. Narender Aggarwal S/o Sh. Madan Mohan S/o Hetram R/o Lok Vihar Pitampura, Delhi in favour of legal heirs

of all other forged Madan Mohan without any concrete evidence & entering forged mutation No. 4414 & all the beneficiaries for playing fraud, preparing forged documents, using those forged documents & acting in mutual connivance. Reference serial No. 17612/1-5/S.V.B. (H) dated 29.10.2021 of State Vigilance Bureau, Haryana, Panchkula has accorded permission regarding conducting investigation after registration of criminal case & has also passed order to take action against any official/worker or person found during investigation to be involved in the 26.10.2021 of Chief Secretary, Vigilance Department, Government of Haryana, Director General. Therefore, in this regard, case was registered U/s 167, 218, 4230, 467, 468, 471 & 120B IPC against all the revenue officials & all those cancelling the Mutation No. 3258 & sanctioning of forged Mutation No.4414 in favour of all the other forged Madan Mohan & legal heirs other than the original legal heir of this land namely Narender Aggarwal 'S/o Madan Mohan S/o Hetram R/o Pitampura Delhi in active connivance without any concrete evidence, upholding the order, playing fraud with all the beneficiaries, preparing forged documents & deriving undue benefit by using those forged documents after which officials were to be intimated through telephone e-mail & special report be sent to llaga Magistrate. After registration of the case, the detailed investigation of the case will be carried out. Sd/- English (Phool Kumar), Inspector, State Vigilance Bureau, Sub-centre, Sonipat. Today on dated 03.12.2021, on receipt of complaint in the police station, FIR No.5 dated 08.12.2021 for offences U/s 167, 218, 4230, 467, 468, 471 & 120B IPC was registered in Police station State Vigilance Bureau & officials were informed via mail. Copy of police missal along with original complaint at page No. 1 to 3 & document file page No. 1 to 130 will be handed over by

SP sir to the appointed IO namely Inspector Mahender Singh State Vigilance Bureau, Rohtak Division, Rohtak & EHC Bijender Singh No. 1550/Rohtak was sent to Duty Magistrate sir, Sonipat after handing him over the special report. Above FIR has been entered in the register in the presence of Inspector Ram Niwas S.V.B. vide the code of SHO Police station”

3. **Contentions**

On behalf of the petitioner

Learned counsel for the petitioner submits that the petitioner has been falsely implicated in the present case on the basis of disclosure statement of co-accused Parvesh Kumar, who has already been enlarged on bail. He further submits that the evidence to be collected is documentary in nature, therefore, custodial interrogation of the petitioner is not required. He undertakes on behalf of the petitioner that he is ready and willing to join the investigation.

Notice of motion.

On behalf of the respondent/State

Mr. Aashish Bishnoi, DAG, Haryana, appearing on advance notice, accepts the same on behalf of the respondent/State and prays for dismissal of the present petition inter-alia on the ground that the land in question is valued at approximately ₹100 crore, and that the petitioner, in furtherance of a criminal conspiracy with co-accused persons, attempted to unlawfully usurp the said property, and as such, custodial interrogation of the petitioner is necessary to un-earth the entire case.

4. **Analysis**

In everyday terms, the principle of law dictates that bail is the general rule, while jail is the exception. However, this Court acknowledges that the power to grant or deny bail is extraordinary and must be exercised

with caution. It is well-established that when considering a bail application (whether pre-arrest or regular bail), the Court must form a *prima facie* opinion as to whether reasonable grounds exist to support the accusation, or if the accusation is frivolous and baseless possibly made with the intention of harming or humiliating the individual, or falsely implicating them in the crime. This evaluation must be conducted in light of the self-imposed restrictions and the broader legal parameters outlined.

As per the prosecution, the petitioner, along with co-accused Parvesh Kumar, entered into a criminal conspiracy with co-accused Madan Mohan (impersonated by Trilochan Singh, now deceased), Hoshiar Singh, Baldev, Aji @ Babe, Gurbal, and Surender. In furtherance of the said conspiracy, Trilochan Singh was allegedly presented as Madan Mohan, and documents, including an agreement to sell, a will, and a general power of attorney (GPA), were purportedly procured from him. As per the disclosure statement of co-accused Parvesh Kumar, the aforementioned will and GPA are currently in the possession of the petitioner. Hence, custodial interrogation of the petitioner is sought for the recovery of these documents.

Moreover, considering the complex nature of the alleged fraud and the manner in which it was executed, custodial interrogation is deemed necessary for a comprehensive and effective investigation, and to uncover the entire conspiracy.

As regards the submissions that co-accused Parvesh Kumar has already been granted bail and that the evidence in the case is predominantly documentary, it is submitted that these grounds, by themselves, do not constitute sufficient basis for granting anticipatory bail to the petitioner.

The Hon'ble Supreme Court in the case of ***Sumitha Pradeep Vs. Arun Kumar C.K. & Anr. 2022 Live Law (SC) 870*** held that merely

because custodial interrogation was not required by itself could not be a ground to grant anticipatory bail. The first and the foremost thing the Court hearing the anticipatory bail application is to consider is the prima facie case against the accused. The relevant extract of the judgment is reproduced hereinbelow:-

“It may be true, as pointed out by learned counsel appearing for Respondent No.1, that charge-sheet has already been filed. It will be unfair to presume on our part that the Investigating Officer does not require Respondent No.1 for custodial interrogation for the purpose of further investigation.

Be that as it may, even assuming it a case where Respondent No.1 is not required for custodial interrogation, we are satisfied that the High Court ought not to have granted discretionary relief of anticipatory bail.

We are dealing with a matter wherein the original complainant (appellant herein) has come before this Court praying that the anticipatory bail granted by the High Court to the accused should be cancelled. To put it in other words, the complainant says that the High Court wrongly exercised its discretion while granting anticipatory bail to the accused in a very serious crime like POCSO and, therefore, the order passed by the High Court granting anticipatory bail to the accused should be quashed and set aside. In many anticipatory bail matters, we have noticed one common argument being canvassed that no custodial interrogation is required and, therefore, anticipatory bail may be granted. There appears to be a serious misconception of law that if no case for custodial interrogation is made out by the prosecution, then that alone would be a good ground to grant anticipatory bail. Custodial interrogation can be one of the relevant aspects to be considered along with other grounds while deciding an application seeking anticipatory bail. There may be many cases in which the custodial interrogation of the accused may not be required, but that does not mean that the prima facie case against the accused should be ignored or overlooked and he should be granted anticipatory bail. The first and foremost thing that the court hearing an anticipatory bail application should consider is the prima facie case put up against the accused. Thereafter, the nature of the offence should be looked into along with the severity of the punishment. Custodial interrogation can be one of the grounds to decline custodial interrogation. However, even if custodial interrogation is not required or necessitated, by itself, cannot be a ground to grant anticipatory bail.”

More so, investigation is still going on in the present case. It is settled proposition of law that power exercisable under Section 482 BNSS, is somewhat extraordinary in character and it is to be exercised in exceptional cases. The Supreme Court in **“State vs. Anil Sharma”; (1997) 7 SCC 187**, held as under:-

“We find force in the submission of the CBI that custodial interrogation is qualitatively more elicitation oriented than questioning a suspect who is well ensconded with a favourable 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 material 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 needs 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.”

Consequently, this Court is of the considered view that custodial interrogation of the petitioner is warranted to facilitate a thorough and effective investigation. Accordingly, no exceptional or compelling circumstances are made out so as to warrant the grant of anticipatory bail to the petitioner.

In the light of above, the petition stands dismissed.

However, it is made clear that the observations in this order are only for the purposes of deciding this bail application and the trial Court is free to adjudicate upon the matter in accordance with law.

(SANDEEP MOUDGIL)
JUDGE

27.03.2025

Meenu

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