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IN THE HIGH COURT OF PUNJAB & HARYANA  
AT CHANDIGARH

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CRM-M-13994-2025 (O&M)  
Date of decision: 13.08.2025

GURDEV SINGH

....Petitioner

Versus

STATE OF HARYANA AND OTHERS

...Respondents

CORAM: HON'BLE MS. JUSTICE SHALINI SINGH NAGPAL

Present : Mr. S.K. Sirsa, Advocate for the petitioner.

Mr.Ved Parkash, Sr. DAG, Haryana.

SHALINI SINGH NAGPAL, J.

CRM-14802-2025

1. Instant application under Section 528 of Bharatiya Nagarik Suraksha Sanhita, 2023, has been filed for placing on record Instagram Chat photos dated 03.04.2025 ( Annexure P-7) , wherein prosecutrix is in conversation with co-accused Salwinder Singh.

2. For the reasons mentioned in the application, the same is allowed. Annexure P-7 is taken on record subject to all just exceptions.

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3. Petition under Section 482 of Bharatiya Nagarik Suraksha Sanhita, 2023, has been filed for grant of anticipatory bail to the petitioner in case FIR No.820 dated 05.12.2024, under Sections 137 and 96 of Bharatiya Nyaya Sanhita 2023, and Sections 3(5), 64(1) of Bharatiya Nyaya Sanhita and Section 4 of Protection of Children from Sexual Offences Act, 2012 added later on, registered at Police Station Rania, District Sirsa.



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4. The facts, as narrated in the first information report, are that one R (name withheld), resident of village "O", informed the police that on 04.12.2024 at about 9:00 PM, they all went to sleep. The next day, on 05.12.2024, when he woke up at 5:00 AM, he found his daughter, (name withheld) born on 16.01.2008, aged about 16 years and 10 months, missing. He searched for her but found no clue and suspected that someone had hidden his daughter.

5. Learned counsel for the petitioner *inter alia* submits that petitioner, Gurdev Singh, was brother-in-law of the main accused, i.e. Salwinder Singh, who had a love affair with the prosecutrix. Referring to the copy of Instagram chat placed on record, it was urged that there was nothing in the conversation between the prosecutrix and accused Salwinder Singh to indicate petitioner's complicity. Moreover, there was five days delay in lodging FIR. As per the medico legal examination of the prosecutrix, she was wearing a green salwar at the time of examination but the Police recovered blue salwar. Referring to statement of the prosecutrix recorded under Section 164 Cr.P.C, learned counsel urged that there was no direct allegation against the petitioner, who had been named only due to family pressure. Moreover, his antecedents were clean and it was a fit case to grant anticipatory bail to the petitioner.

6. Learned State counsel has opposed the prayer for grant of anticipatory bail submitting that in her statement under Section 164 Cr.P.C., prosecutrix directly implicated the petitioner in the offence under Section 4 of the Protection of Children from Sexual Offences Act, 2012. Even while giving history at the time of medical evidence, she had levelled specific allegations against the petitioner. Offence being grievous in nature, petitioner was not entitled to anticipatory bail.



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7. In the case of **Siddharam Satlingappa Mhetre Vs. State of Maharashtra and Others 2010 SCC Online SC 137**, Hon'ble Supreme Court has laid down the guiding factors and parameters to be taken into consideration, while dealing with anticipatory bails. The relevant extract of the judgment reads as under:-

“i) *The nature and gravity of the accusation and the exact role of the accused must be properly comprehended before arrest is made;*

ii. *The antecedents of the applicant including the fact as to whether the accused has previously undergone imprisonment on conviction by a Court in respect of any cognizable offence;*

iii. *The possibility of the applicant to flee from justice;*

iv. *The possibility of the accused's likelihood to repeat similar or the other offences.*

v. *Where the accusations have been made only with the object of injuring or humiliating the applicant by arresting him or her.*

vi. *Impact of grant of anticipatory bail particularly in cases of large magnitude affecting a very large number of people”.*

8. In **Sumitha Pradeep Vs. Arum Kumar, 2022(4) RCR Criminal) 977, 2022 (17) SCC 391** Hon'ble Apex Court observed as under:-

*“There may be many cases in which custodial interrogation of the accused may not be required, but that does not mean that 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*



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*interrogation is not required or necessitated, by itself, cannot be a ground to grant anticipatory bail.”*

9. Keeping in mind the above principles and considering the grave and serious nature of allegations leveled, this Court is not inclined to grant anticipatory bail to the petitioner. In her statement recorded under Section 183 Bharatiya Nagarik Suraksha Sanhita, 2023, prosecutrix stated that on 12.12.2024 at about 7:00 PM, she and Gurdev Singh, brother-in-law of her friend Salwinder reached the village from Gujrat; that Gurdev Singh forcibly dragged her towards eucalyptus trees near Ghaggar river and despite her resistance, committed wrongful act with her. In the medico legal report dated 17.12.2024 as well, the history given by the prosecutrix reveals that she reached the village with Gurdev on 12.12.2024, where Gurdev raped her by river side.

10. In matters of sexual assault of children, the duty of the Court is to act as a guardian of the child. In such cases, legislative objective of Protection of Children from Sexual Offences, Act, 2012, and liberty of an individual have to be weighed and balanced as the impact of such offences on a child victim is grave, long lasting and results in severe psychological trauma.

13. Considering entire facts and circumstances of the case, the quantum of punishment conviction may entail, as also the fact that the offence is against public morality, the petition for anticipatory bail is dismissed.

14. Nothing observed hereinabove shall be construed as expression of opinion on merits of the case.

(SHALINI SINGH NAGPAL)  
JUDGE

13.08.2025  
amandeep/nt

Whether speaking/reasoned. : Yes/No  
Whether Reportable. : Yes/No