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IN THE HIGH COURT OF PUNJAB AND HARYANA  
AT CHANDIGARH

CRM-M-15447-2025

Date of Decision: 08.04.2025

Mustak @ Hukdi

...Petitioner

Versus

State of Haryana

...Respondent

CORAM: HON'BLE MR. JUSTICE ANOOP CHITKARA

Present: Mr. Najim Khan, Advocate  
for the petitioner.

Ms. Harpreet Kaur, A.A.G., Haryana.

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ANOOP CHITKARA, J.

| FIR No. | Dated      | Police Station         | Sections     |
|---------|------------|------------------------|--------------|
| 74      | 18.08.2020 | Bahin, District Palwal | 379, 411 IPC |

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. Per paragraph 8 of the bail application and paragraph 10 of status report, the accused has the following criminal antecedents:

| Sr. No. | FIR No.  | Date       | Offenses                                                   | Police Station   |
|---------|----------|------------|------------------------------------------------------------|------------------|
| 1.      | 72       | 15.02.2013 | 392, 394 IPC                                               | Tapukra          |
| 2.      | 310      | 10.10.2020 | 341, 398, 401, 420, 473 IPC                                | Tauru            |
| 3.      | 56       | 18.04.2012 | 147, 148, 149, 325, 336, 397, 229, 365 IPC, 25 of Arms Act | Mehndipur Balaji |
| 4.      | 22       | 19.01.2019 | 25, 54, 59 of Arms Act                                     | Hathin           |
| 5.      | 18660    | 09.08.2020 | 379 IPC                                                    | Sarai Rohilla    |
| 6.      | 26       | 13.01.2005 | 379 IPC                                                    | Punhana          |
| 7.      | 232      | 31.10.2007 | Arms Act                                                   | Hathin           |
| 8.      | 583/2013 | -          | 25, 54, 59 of Arms Act                                     | Sadar Gurugram   |
| 9.      | 265      | 23.09.2024 | 25(1)(a), 54, 59 of Arms Act                               | Tauru            |
| 10.     | 74       | 18.03.2024 | 411, 201, 120-B IPC                                        | Nagina           |

3. The facts and allegations are being taken from the status report filed by the State, which reads as follows:

*“1. That the brief facts of the case are that on 18.08.2020, HC Azam Khan along with Constable Sohanpal No. 351/ Palwal, constable*



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*Ravindra No. 777 and along with government vehicle driver EASI Ashraf No. 272 was present for patrolling and inspection on Kot Punhana Road. At that time, a special informant met HC Azam Khan and informed him that Kaala son of Jalaluddin, Hukdi (petitioner) son of Ishab, Chindu son of Kamar Singh, and Mubbi son of Ilyas, residents of Khilluka, Police Station Hathin, had stolen a white and red-colored TATA 407 vehicle, bearing number DL-IL-V-6804, from Delhi about 10 days ago and were now going to sell it in UP, Mathura. If a checkpoint is set up at the Kot-Punhana Road culvert, they can be caught along with the vehicle. Considering this information to be true, the fellow officers were informed, and a blockade was set up near the culvert on Kot-Punhana Road. After some time, a vehicle was seen coming from the direction of Kot village bus stand. As soon as the occupants saw the police party, they immediately stopped the vehicle, and four young boys started running towards the nearby fields. An attempt was made to catch them, but taking advantage of the darkness of the night, they managed to escape. HC Azam Khan checked the vehicle number and found that DL-IL-V-6804 was written on both the front and rear of the vehicle. The aforementioned recovered vehicle was seized by the police through a seizure memo, and the witnesses signed it twice. The accused Kaala son of Jalaluddin, Hukdi (petitioner) son of Ishab, Chintu son of Kamar Singh, and Mubbi son of Ilyas, residents of Khilluka, Police Station Hathin, had possession of the stolen TATA 407 vehicle and committed the crime, on the basis of which present FIR no. 74 dated 18.08.2020, U/s 379, 411 of IPC has been lodged at P.S. Bahin which is attached with the petition as annexure P-1."*

4. The petitioner's counsel prays for bail by imposing any stringent conditions and contends that 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:

*"7. That the role of the petitioner in the present case is that the petitioner in collusion with his co-accused had stolen a white and red-colored TATA 407 vehicle, bearing number DL-IL-V-6804, from Delhi and on information of a secret informer, a Nakabandi was made and after saw the police party, the petitioner and his co-accused stopped the vehicle and succeed to run away from the spot by taking the advantage of darkness and the vehicle No. DL-IL-V-6804 was taken into police possession and in the disclosure statement of co-accused, the name of the petitioner clearly mentioned, the translated copy of discourse statement of co-accused Mubbarik @ Mubbi is attached herewith as annexure R-2."*

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7. Since the incident is old, the Police did not arrest the petitioner; if they intended to arrest the petitioner, it was not impossible.
8. 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.
9. 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.
10. 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.
11. Given above, provided the petitioner is not required in any other case, the petitioner shall be released on 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.
12. 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)                                                                                                             |  |

13. 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,



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inhuman treatment, etc.

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. It is clarified that if the petitioner violates any bail condition, the State and/or the victim may file an application for bail cancellation before the trial court, which shall be competent to cancel the bail or add more conditions. Furthermore, if the petitioner moves for deletion or dilution of any bail conditions, the trial court is empowered to do so.

16. **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 have the liberty to cancel this bail.**

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

08.04.2025  
Jyoti Sharma

Whether speaking/reasoned: Yes  
Whether reportable: No.