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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-16293-2025 (O&M)
Date of Decision : 02-05-2025

Rakesh

.....Petitioner(s)

Versus

State of Haryana

.....Respondent(s)

CORAM: HON'BLE MR. JUSTICE ANOOP CHITKARA

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

Ms. Harpreet Kaur, AAG, Haryana.

ANOOP CHITKARA, J. (Oral)

FIR No.	Dated	Police Station	Sections
358	12.12.2024	DLF, Phase 1, District Gurugram	305 BNS, 2023

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 5 of the bail petition, the accused declares his criminal antecedents as follows:

S.No.	FIR No.	Dated	Police Station	Sections
1.	483	28.11.2019	DLF, Phase 1, District Gurugram	147, 149, 323, 341, 506 IPC
2.	411	2.10.2019	DLF, Phase 1, District Gurugram	323, 34, 506 IPC
3.	173	17.7.2023	DLF, Phase 1, District Gurugram	147, 149, 323, 452, 506, 307 IPC and Section 25(1B) Arms Act

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

“3. That the facts forming the genesis of the present FIR are that on the night of 11 December 2024, the complainant, Tarun, moved a complaint stating therein that he had parked his white EECO Cargo vehicle (HR 55AJ1080) in front of his brother's grocery shop in Village Bhandhwari. It was

alleged that the vehicle contained merchandise and cash amounting to ₹40,000. It was further alleged that when the complainant returned the next morning at around 8:00 AM, he found the vehicle missing, following which he reported the matter at the Gwal Pahari Police Post. On the basis of these facts, the FIR aforementioned was registered and investigations were taken up in the matter.”

4. The petitioner's counsel prays for bail and has no objection to imposing any stringent conditions and contends that pre-trial incarceration would cause an irreversible injustice to the petitioner and their family. He further undertakes that during the period of bail, he shall not commit any offence and in case he commits any offence in which the sentence provided is more than seven years, the State shall be at liberty file an application for cancellation of bail, to which they will not raise any objection. Petitioner's counsel further submits that the petitioner had joined the investigation and has handed over the alleged amount of Rs.15,000/- to the investigator.

5. The State's counsel opposes bail and refers to the reply.

6. It would be appropriate to refer to the paragraphs 8 to 10 of the reply, which read as follows:

“8. That as per the investigation, the CCTV footage collected from the vicinity of the scene of the incident shows a Swift bearing registration number HR98D1183, being present at the location. The footage further captures two individuals alighting from this vehicle, Hoshi and Lambi (as disclosed by the petitioner), and subsequently stealing the complainant's white EECO Cargo vehicle containing merchandise and 240,000 cash. As per the records, the petitioner's brother Satbir happens to be the registered owner of the said vehicle which has been captured in the CCTV footage. The police had issued a notice under Section 133 MV Act calling upon the petitioner's brother to join the investigation and apprise the investigating agency as to who was the user of the vehicle in question on the day and date of occurrence, however, the petitioner's brother has been avoiding to do so.

9. That it is apparent from the evidence collected so far that the vehicle bearing registration no. HR 98D1183 was used in the commission of crime complained of. The unknown persons who could be seen in the CCTV footage turned out to be the petitioner's accomplices, namely Hoshi and Lambi, and merchandise the stolen EECO car, and the remaining cash Rs.25,000/- is yet to be recovered. The recovery of the stolen vehicle, merchandise and the cash are crucial aspects that need to be ascertained and being so, it would not be possible for the District Police to bring the investigation of the present case to a logical conclusion. Both Hoshi and Lambi are still at large and they are yet to be associated with the investigation of the present case.

10. That further, the law is settled that the relief of anticipatory bail is an extraordinary relief, which is to be granted in exceptional circumstances. The petitioner, by way of his pleadings, has failed to set out existence of any such exceptional circumstances. The petitioner has not got recovered the cash amount of Rs.15,000/- which fell into share and thus, this being so, keeping in view the nature of offence and the gravity thereof, there are no circumstances which may warrant the grant of concession of anticipatory

bail to him, particularly since his custodial interrogation is required to bring the investigation of the case to a logical conclusion.”

7. Recovery of Rs.15,000/- has already been effected from the petitioner and as such, no case for custodial interrogation is made out. 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. Considering the conduct of the petitioner in which he has duly cooperated in the investigation and 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, subject to the compliance of terms and conditions mentioned in this order. 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 Ilqa 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. The petitioner shall abide by all statutory bond conditions and appear before the concerned Court(s) on all dates. The petitioner shall not tamper with the evidence, influence, browbeat, pressurize, induce, threaten, or promise, directly or indirectly, any witnesses, Police officials, or any other person acquainted with the facts and circumstances of the case or dissuade them from disclosing such facts to the Police or the Court.

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

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

17. 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.

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

02-05-2025
AK

(ANOOP CHITKARA)
JUDGE

NOTE: Whether speaking/non-speaking: Speaking
Whether reportable: YES/NO