



IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

129

CRM-M-17282-2025
DATE OF DECISION: 28.03.2025

HARISH KUMAR

...PETITIONER

Versus

STATE OF HARYANA

... RESPONDENT

CORAM: HON'BLE MR. JUSTICE SANDEEP MOUDGIL

Present: Mr. C.S. Sharma, Advocate for the petitioner(s).

Mr. Chetan Sharma, DAG, Haryana.

Mr. Fateh Saini, Advocate for the complainant.

SANDEEP MOUDGIL, J (ORAL)1. Prayer

This petition has been filed under Section 438 of Cr.P.C. as now (482 of BNSS 2023) for grant of Anticipatory Bail to the present petitioner in FIR No.0023 dated 05.03.2025 under Sections 409, 201, 120-B of IPC registered at Police Station Barara, District Ambala.

2. Prosecution story, set up in the present case as per the version in the FIR reads as under :-

‘Sir, the copy allocation is as follows- To, SHO Police station Barara, subject about tampering and destruction of records by the Gram Secretary and Sarpanch of Gram Panchayat Talhedi Rangdhan in collusion. Sir it is requested that I am gurdeep Singh son of Karamjit Singh, resident of village Talhedi Rangdhan police station Barara district Ambala and am a prominent person of the village. That in the year 2020,



I had complained to BDPO Barara through CM window that the then sarpanch Harish Kumar has embezzled lakhs of rupees in the name of village development during his tenure and he can destroy or burn the records in any way, the records should be taken from him and kept safe with the administration, at that time the then Gram Secretary Yashpal had given a written statement that the records are safe with me. After that, I had sought RTI for getting the records of Gram Panchayat in the year 2022-2023. But I did not get any reply nor any record. Then I appealed to Haryana State information commission Chandigarh, on which it was ordered that FIR should be registered against whoever has damaged the panchayat records. I am fully confident that the Panchayat records of our village have either been destroyed or burnt by former Sarpanch Harish Kumar or Secretary Yash Pal or Secretary Anuj Kumar or current Sarpanch Rinku in collusion. Because even now the current Sarpanch has the gram Panchayat not complete record of the Panchayat. Due to which the development of our village is being hindered. Hence, our village former Sarpanch Harish Kumar from 2016-2021 and the then village secretary Yashpal and then village secretary Anuj Kumar hatched a criminal conspiracy and swindled lakhs of rupees in the name of development of our village panchayat and destroyed or tampered the records of the panchayat of that time. Please register a case against the above culprits and take legal action.'

3. Contentions

On behalf of the petitioner

Learned counsel for the petitioner has argued that the petitioner has been falsely implicated in the present case. He submits that Block Development and Panchayat officer, Barara gave a letter against the Gram Secretary YashPal that he is being absent from his



duty, moreso, Block development and Panchayat officer Barara wrote in his letter dated 02.02.2022 that records of the gram panchayat namely Milkshakha, Nahra, Dera Salimpur, AlwalPur, Talhedi R is under the custody of the Gram Secretary Yashpal. He submits that the petitioner remained Sarpanch of the village during the tenure 2016 to 2021 and never mis-appropriated any funds of the panchayat nor destroyed the same, as all the record of the development work of gram Panchayat remains under the custody of Gram Secretary and same was in the possession of BDPO, Barara and the Block development and Panchayat officer himself admitted in his letter dated 16.03.2022 that record of the Talhedi R gram panchayat remained in his custody.

It is his further contention that the complainant-Gurdeep Singh is having inimical relations with the petitioner, as the mother of the complainant named, Smt. Roshini Devi remained Sarpanch of the village Talheri R during the tenure 2011-2016 and during her tenure, she misappropriated the funds of Gram Panchayat, moreso, the petitioner made complaint against Smt. Roshini the then Sarpanch of the village and a criminal case was registered against her. It is his contention that the complainant in order to pressurize the petitioner to compromise the matter with his mother, has moved false complaint against the petitioner and now got lodged the present FIR. He points out that the registration of FIR at a such a belated stage qua the loss, if any, caused in year 2016-2021 is not sustainable. It is submitted that even section 53 (5) of Haryana Panchayati Raj Act, 1994 provides that no person shall be called upon to make good any loss after expiry of six years from the occurrence of loss.



Learned counsel for the petitioner undertakes that the petitioner is ready and willing to join the investigation and cooperate with the investigating officer.

Notice of motion.

On behalf of the State and the complainant

Learned State Counsel appearing on advance notice on instructions from Investigating officer vehemently opposes the prayer for grant of concession of anticipatory bail. He contends that according to the statement of Panchayat Secretary namely Anuj Kumar, some of the record was sought by the petitioner being Sarpanch of the Gram Panchayat to put some entries and a complete the record which was received by him has not been returned back as only the part of it was handed over to the Gram Secretary which is required to be collected from the petitioner and on that account his custodial interrogation is required.

Learned counsel for the complainant submits that there is dereliction of the duty on the part of the petitioner as has been revealed through RTI information sought by him. A perusal of the same has been made with the assistance of the counsel for the complainant but this Court do not find any convincing argument to assert that the record was with the petitioner at any point of time which has been returned until and unless the case qua that is proved, the onus of which would lie on the complainant.

4. **Analysis**

After given a thoughtful consideration to the submissions as made, by the counsel for both the parties as discussed hereinabove, this

Court finds no reason to deny the petitioner the concession of anticipatory bail, wherein the petitioner has bona fide intentions and is willing to join the investigation and cooperate for furtherance of the same so that the final report can be submitted by the Investigating Agency within the stipulated time period.

5. **Relief**

Hence, in view of the admitted set of circumstances before this Court, the petitioner is hereby directed to be released on anticipatory bail subject to him joining investigation and reporting to the Investigating Officer concerned within a period of one week from today, on furnishing of personal/surety bonds to the satisfaction of Arresting/Investigating Officer. The petitioner shall also abide by the terms and conditions as envisaged under Section 482(2) of BNSS of which are reproduced below :-

‘When the High Court or the Court of Session makes a direction under sub-section (1), it may include such conditions in such directions in the light of the facts of the particular case, as it may think fit, including-

(i) a condition that the person shall make himself available for interrogation by a police officer as and when required;

(ii) a condition that the person shall not, directly or indirectly, make any inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade him from disclosing such facts to the Court or to any police officer;

(iii) a condition that the person shall not leave India without the previous permission of the Court;

(iv) such other condition as may be imposed under sub-section (3) of section 480, as if the bail were granted under that section.’



However, it is made clear that in case the petitioner does not comply with the aforesaid direction of joining the investigation within one week, the order passed by this Court today shall automatically stand cancelled.

The petition in the aforesaid terms stand allowed.

(SANDEEP MOUDGIL)
JUDGE

28.03.2025

anuradha

Whether speaking/reasoned

Yes/No

Whether reportable

Yes/No