

Neutral Citation No. 2025:PHHC:049767

167 IN THE PUNJAB AND HARYANA HIGH COURT
AT CHANDIGARH

CRM-M-20054-2025
DECIDED ON: 09.04.2025

RAVINDER SINGH

... PETITIONER

VERSUS

STATE OF PUNJAB

... RESPONDENT

CORAM: HON'BLE MR. JUSTICE SANDEEP MOUDGIL.

Present: Mr. Sant Pal Singh Sidhu, Advocate
for the petitioner.

SANDEEP MOUDGIL, J

1. Relief Sought:-

The jurisdiction of this Court under Section 482 BNSS,2023 has been invoked seeking pre-arrest bail to the petitioner in case FIR No.256, dated 04.12.2024, under Sections 303(2), 338, 336 (3), 340 (2), 61(2), 238, 317 (2) and 340 of BNS, 2023, registered at Police Station City-1, Abohar, District Fazilka.

2. Facts

Prosecution story as per the FIR is narrated as under:-

“SHO Police station City-1 Abohar, Jai Hind. It is submitted that I ASI alongwith Senior Constable Maninder Singh, Sr. Constable Rakesh Kumar, PHG Jai Chand were present near Pali Da Dhaba by pass Malout Road, Abohar on a private car, then informer gave a information that Sony s/o Gurcharan Singh r/o Village Piori Road, Gidderbaha, Jagga Singh s/o Bachittar Singh, resident of

Jangi Rana, District Bathinda are committing theft of Motorcycles from Abohar City and from nearby areas. Alongwith them Gurpreet Singh s/o Jasvir Singh r/o Teona who is owner of Teona Motors Talwandi Sabo, a motorcycle agency and his Mangar Sukhwinder Singh s/o Amarjit Singh r/o Fatehgarh are also conniving. Soni and Jagga Singh are taking stolen motorcycles to them and agents are also conniving with them, who are getting duplicate RCs of motorcycles and by forging the signatures of original owner and by preparing the affidavit, they are selling stolen motorcycles on full rate to innocent persons. They are transferring the ownership in the registration certificate through the agents. Today Soni and Jagga are roaming in Abohar on a motorcycle which is without number plate and now they will go to Gidderbaha via malout road. If nakabandi is hold at appropriate place then they can be apprehended with stolen motorcycle. Information is solid and reliable and thus accused have committed offence under sections 303 (2), 338, 336 (3), 340 (2), 61 (2) of BNS. Thus, ruga is hereby sent through PHG Jai Chand for registration of case against Sony, Jagga Singh, Gurpreet Singh, Sukhwinder Singh and unknown agents. After registering the case, FIR number be intimated. PCR Fazilka be informed, Special reports be issued. I alongwith companions going for nakabandi near Bahavwali link road, Bye pass Abohar. Sd/-Bhupinder Singh ASI."

3. **Submissions**

On behalf of the petitioner:

It has been contended by learned counsel for the petitioner that the petitioner is not named in the FIR and has been falsely implicated in the present case. The petitioner is ready and willing to join the investigation and will co-operate with the investigating agency.

Notice of motion.

On behalf of respondent-State

At the asking of Court, Mr. Jaspal Singh Guru, AAG, Punjab appearing on advance notice, accepts the same on behalf of respondent-State. He submits that the investigation of the case is still pending and custodial investigation/interrogation of the petitioner would be required to culminate the investigation into a logical end. He prays for dismissal of the present petition, submitting that the allegation against the petitioner is that he being a public servant posted as Clerk in the office of RTA has fraudulently transferred the motor cycle bearing registration No. PB-22-8386 in the name of one Gulab Singh.

Heard learned counsel for the respective parties.

4. **Analysis and conclusion:**

In case of criminal investigation, the normal procedure prescribed for curtailing the right to life & liberty, is that the investigating officer can arrest the accused even without warrant. The Court has extraordinary power to protect an innocent person. However, this power has to be exercised by the Courts with due circumspection.

Prima facie, the allegations levelled against the petitioner are grave and well-defined. According to the prosecution, the petitioner, being a public servant, acted in collusion with the co-accused, who were engaged in the fabrication of duplicate documents for stolen vehicles. It is specifically alleged that the petitioner facilitated the transfer of ownership of a motorcycle bearing registration number PB-22-8386 in the name of one Gulab Singh, thereby misleading and defrauding several innocent individuals. Such acts, apart from constituting criminal misconduct, also amount to cheating the State exchequer.

The mere contention that the petitioner is ready and willing to join the investigation does not vest a right for grant him anticipatory bail. The case made out against the petitioner is certainly a relevant ground for denial of anticipatory bail in the case in hand.

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, 2023, 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.”

In light of the gravity of the offences, the *modus operandi* adopted, this Court does not deem it fit to extend the extraordinary concession of

anticipatory bail to the petitioner. The instant petition stand dismissed accordingly.

However, it is made clear that anything observed hereinabove shall not be construed to be an expression of opinion on the merits of the case

09.04.2025
sham

(SANDEEP MOUDGIL)
JUDGE

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