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**IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH**

Sr. No.226**CRM-M-20308-2025 (O&M)****Date of decision : 23.05.2025**

Narinder Kumar Kanda @ Narinder Kanda

..... Petitioner

VERSUS

State of Punjab and another

..... Respondents

CORAM: HON'BLE MS. JUSTICE KIRTI SINGH

Present: Mr. Vishal Sharma (Vasudeva), Advocate,
for the petitioner.

Ms. Aakanksha Gupta, AAG, Punjab.

Mr. Binat Sharma, Advocate, for respondent No.2.

KIRTI SINGH, J. (Oral)**CRM-19280-2025**

1. The application is allowed as prayed for. Annexures R-1 & R2 are taken on record.

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2. Apprehending arrest in FIR No.43 dated 20.03.2025, under Section 75 BNS (corresponding to Section 354-A IPC), Section 351(2) BNS (corresponding to Section 506 IPC), registered at Police Station Nangal, District Rupnagar, Punjab the petitioner has preferred this petition under Section 482 of Bhartiya Nagarik Suraksha Sanhita, 2023 (BNSS, 2023) for grant of pre-arrest bail.

3. The contents of the FIR is reproduced below:-

“Statement of Deepika Rani W/o Kartik Sharma resident of S No./SCF 05 Sector-4 Market, Naya Nangal Police Station Nangal District Rupnagar aged about 29 years Mob.: 76588-

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38912, "Stated that I am resident of above mentioned address. I am doing work at NFL Hospital for the last 3 years 10 months and from the last one year, Vanshika Enterprises to whom Mr. Narinder Kumar Kanda r/o # 599 Shivalik Avenue Naya Nangal is running, who is mentally and sexually harassing me for the last 5 months and asking me to make physical relations with me if not then you will out from the work. When I did not agree their wish, they marked my absent and physical torture me twice. When I told this matter at my home and to the hospital then he start threatening through other persons. Therefore strict legal action be taken against Narinder Kumar Kanda. This statement has been recorded in the presence of husband Kartik Sharma. Heard and is correct. SD/-Deepika Rani 7658838912. Witness sd/- Kartik 9816903314 Attested sd/- L/SCT Neelam Devi 75/R PP Naya Nangal Dt. 20-03-2025."

4. Learned counsel for the petitioner *inter alia* submits that the complainant was employed as a nurse at NFL Hospital through M/s Vanshika Enterprises, a firm being run by the wife of the petitioner. Being the contractor, it was the duty of the petitioner to recommend only efficient workers to companies. It is submitted due to the inefficiency and misconduct of the complainant, the petitioner was constrained to send an email on 17.02.2025 to a Senior Doctor of the hospital for reporting the wrong doings of the complainant. It is as a counter-blast to the said complaint that the present FIR was got lodged to falsely implicate the petitioner. Learned counsel further states that on the same date as the date of registration of the FIR i.e. 20.03.2025, the complainant even submitted a complaint to the Chief Medical Officer of NFL Hospital against the petitioner as also his wife and son. It is also the submission that the present FIR lacks specific details as to date, time and place of the alleged offences. Learned counsel submits

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that the mandatory procedure under Section 35(3) of BNSS for offences with punishment less than 7 years has not been followed. He places reliance upon the judgment passed by the Hon'ble Supreme Court in **Arnesh Kumar Vs. State of Bihar and another.**

5. *Per contra*, learned State counsel by referring to the status report dated 14.04.2025 filed by way of an affidavit of Sh. Kulbir Singh Sandhu (PPS), Deputy Superintendent of Police, Nangal, District Rupnagar, Punjab, submits that on 24.03.2025, the statement of the complainant was recorded before the learned JMIC, Nangal wherein she reiterated the allegations leveled against the petitioner in the FIR. Learned State counsel submits that vigorous efforts were made to arrest the petitioner and during investigation of the case, his house and other places of his hideouts were raided, however, he could not be arrested as he remained at large and kept on evading his arrest. Qua the averment that similar other complaints had been made against the petitioner by other female employees, learned State counsel submits that on 16.11.2024, a call by one Anita Rani was received on the police helpline No.112 who made a complaint that she was being harassed by one Ram Singh Kanda. On this basis, a complaint was entered as DDR No.04 dated 16.11.2024 and Anita Rani was contacted multiple times to come forward and assist the investigating agency but she kept dilly-dallying on one pretext or the other and thereafter switched off her mobile. It is further submitted that another general complaint seeking high level probe into the allegations of sexual harassment of female employees of NFL Hospital was moved by an Advocate on 29.03.2025, which is being actively investigated. Learned State counsel further submits that however, there is no

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previous complaint specifically registered against the petitioner herein, probably because of the victims being influenced. Therefore, in view of the serious allegations against the petitioner, he is not entitled to anticipatory bail.

6. Learned counsel for the complainant vehemently opposed the present petition and submitted that the name of the accused in the complaint of Anita Rani, Nurse was purposely changed from Narinder Kumar Kanda to Ram Singh Kanda in order to shield the petitioner, who is exerting his power and influence with the higher-ups. It is also submitted that there is another complaint made by some other employee, which is pending against the petitioner with the POSH Committee constituted by NFL Hospital. He further submits that earlier also, there were other complaints of harassment against the petitioner, which have been placed on record as Annexures R1 & R2.

7. Heard the submissions made by learned counsel for the parties and perused the record.

8. In **Srikant Upadhyay and others vs. State of Bihar and another, 2024 (INSC) 202 (SC)**, Hon'ble Supreme Court held as under:

“It is thus obvious from the catena of decisions dealing with bail that even while clarifying that arrest should be the last option and it should be restricted to cases where arrest is imperative in the facts and circumstances of a case, the consistent view is that the grant of anticipatory bail shall be restricted to exceptional circumstances. In other words, the position is that the power to grant anticipatory bail under Section 438, Cr.P.C. is an exceptional power and should be

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*exercised only in exceptional cases and not as a matter of course. Its object is to ensure that a person should not be harassed or humiliated in order to satisfy the grudge or personal vendetta of the complainant. (See the decision of this Court in *HDFC Bank Ltd. v. J.J.Mannan & Anr.* 2010 (1) SCC 679).*

*Further, it was clearly observed in para No.24 of the judgment (supra) that **“though in many cases it was held that bail is said to be a rule, it cannot, by any stretch of imagination, be said that anticipatory bail is the rule.** It cannot be the rule and the question of its grant should be left to the cautious and judicious discretion by the Court depending on the facts and circumstances of each case. While called upon to exercise the said power, the Court concerned has to be very cautious as the grant of interim protection or protection to the accused in serious cases may lead to miscarriage of justice and may hamper the investigation to a great extent as it may sometimes lead to tampering or distraction of the evidence. We shall not be understood to have held that the Court shall not pass an interim protection pending consideration of such application as the Section is destined to safeguard the freedom of an individual against unwarranted arrest and we say that such orders shall be passed in eminently fit cases. At any rate, when warrant of arrest or proclamation is issued, the applicant is not entitled to invoke the extraordinary power. Certainly, this will not deprive the power of the Court to grant pre-arrest bail in extreme, exceptional cases in the interest of justice. But then, person(s) continuously, defying orders and keep absconding is not entitled to such grant.”*

9. In *Sushila Aggarwal v. State (NCT of Delhi) (2018) 7 SCC 731*, the Constitution Bench reaffirmed that when considering applications

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for anticipatory bail, Courts should consider factors such as the nature and gravity of the offences, the role attributed to the applicant, and the specific facts of the case.

10. The general rule, put tersely, may be of bail, no jail; however, a just exception may be taken where there are circumstances which might thwart the course of justice. The antecedents of the accused or the probability of the accused fleeing, intimidating witnesses or tampering with the evidence, inter alia, weigh in heavy before the Court when dealing with a petition for the grant of anticipatory bail.

11. *Prima facie*, there are serious allegations against the petitioner, who is in a position of power over the complainant, of harassing her and compelling her to make sexual relations with him. Allegations have also been leveled that it is not the complainant alone who has been a victim of sexual abuse. Therefore, this Court is not inclined to grant the discretionary relief of anticipatory bail to the petitioner in the present case, wherein custodial interrogation of the petitioner might be required to unearth the true dimension of the alleged occurrence.

12. In the light of the foregoing discussion, this Court is not inclined to grant the concession of anticipatory bail to the petitioner.

13. Accordingly, the petition is dismissed.

Pending miscellaneous application(s), if any, also stands disposed of.

(KIRTI SINGH)
JUDGE

23.05.2025
Ramandeep Singh

Whether speaking / reasoned
Whether Reportable

Yes/No
Yes/No