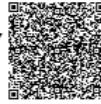


2025:PHHC:053007



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

**CRM-M-21806-2025
DECIDED ON: 25.04.2025**

ARUN ALIAS KALA AIAS ARUN BARWALA

.....PETITIONER

VERSUS

STATE OF HARYANA

.....RESPONDENT

CORAM: HON'BLE MR. JUSTICE SANDEEP MOUDGIL

Present: Mr. Sandeep S. Manjithia, Advocate
for the petitioner.

Mr. B.S.Virk, Sr DAG, Haryana.

SANDEEP MOUDGIL, J (ORAL)

1. Prayer

The jurisdiction of this Court has been invoked under Section 482 BNSS, 2023 for grant of anticipatory bail to the petitioner in FIR No.290 dated 26.11.2024 (Annexure P-1) for offences under Sections 406, 420 IPC, registered at Police Station Sanoli, Panipat, District Panipat.

2. Prosecution story setup in the present case as per the version in the FIR as under:-

“Copy appended herewith. To Mr. Superintendent of Police Panipat to initiate legal action on the complaint against Nempal son Mange Ram, Arun alias Kala son Nempal, residents of Village Kabri

District Panipat and Sonu resident of Delhi. Sir, it is submitted that I Rajinder son Sahi Ram am resident of Village Chhajpur Khurd Tehsil Bapauli District Panipat, Haryana. I am a family son. I have one son namely Ankush and one brother Joginder son of Sahi Ram. I am a farmer. A case was registered against my son Ankush and my brother Joginder and other members of my family, in which after being convicted confined in Panipat Jail. During the stay in the Jail, they became acquainted to Nempal son Mange Ram, who was also serving a sentence in a case at that time, who got released after getting bail in October 2023. Nempal also acquainted to Jagdish son Devi Singh, Tejpal son Nar Singh, Deepak alias Hazari son Suresh while he was in jail. Nempal told them that it will take 20 lakh rupees per person and said that I will get your work done on the first or second date. I have links till the Registrar. That when I used to go to meet my son Ankush and brother Joginder then at that time my son, my brother and all three members of my family to told me that Nempal is linked with the high officials and he also has been acquitted and has come out in his case. He will help us also. After which I met Nempal and he told me everything and gave me false assurance, which I gave Rs.60.00 lakhs to the said Nempal on 21.11.2023 for the acquittal of my son Ankush and my brother Joginder from the Hon'ble Punjab and Haryana Court, Chandigarh, at the house of my brother Jagdish son of Devi Singh on 21.11.2023. That day Nempal came with his son Arun alias Kala alias Ranga in Scropio Car bearing Registration No.HR06AP-3400. I am in possession of a CCTV footage of the said day as evidence. I will be bound to produce the same at the appropriate time. After that on 02.11.2023 and on 04.12.2023 Jagdish son Devi Singh and Tejpal son Nar Singh and their relative Vinod, Residents of Sector-12 Panipat met the above- said Nempal and for the purpose of getting above-said Jagdish and Tejpal acquitted, a sum of Rs.40.00 lakhs was given to above-said Nempal at the house Jagdish son of Devi Singh. The CCTV footage of which is available with me as an evidence. That it has been more than one year since I

have made the payment, who is time and again putting of the matter and is saying that I have spoken to the high up and everything will be done. That Ankush son Rajinder, Jagdish son Devi Singh, Tejpal son Nar Singh and Deepak alias Hazari son Suresh Wasian have been granted bail by the Hon'ble Punjab and Haryana High Court Chandigarh and we have all gone and met Nempal again and again. Since our work was not done, he said that he would get transferred a piece of land in his name in Village Dadheda District Shamli, Uttar Pradesh. We met Nempal and he said that he will return the money on 05.11.2024. We went to his house time and again asking for money and he kept on delaying the matter and thereafter he started threatening us to get implicating in some false case of SS/ST Act and said that he would get them implicated in some false case of harassment of his wife. On 18.11.2024, Tejpal son of Nar Singh made a phone call to Nempal on his mobile number 9813900071 from his mobile number 9813031700. He said that I am into some trouble regarding something about which you might have come to know. Wait for 15-20 days, we will settle everything. The call record of which will be produced before you. That the above-said Nempal and others with him have conspired together and cheated money from us. Legal action should be taken against the said Nempal and other people and I request you to take cognizance of the said case and take legal action against the said Nempal and other people and have the money returned which we have given to him and do justice to us. Thank you very much. Application Rajinder Kumar Son of Sahri Ram, resident of village Chhajpur Khurd, Tehsil Bapauli, District Panipat Mobile No.9416222070 dated 22.11.2024.”

3. **Contention**

On behalf of the petitioner

Counsel for the petitioner contends that the petitioner had only accompanied co-accused Nempal (father of the petitioner) on 21.11.2023 to the

house of the complainant for collecting money and no money was handed over to the petitioner by the complainant. He further contends that the petitioner has no direct role in the participation of commissioning of offence and no recovery is to be effected from him. Counsel for the petitioner further assures that he is ready and willing to join and cooperate in the investigation.

Notice of motion

On behalf of the State

Learned counsel for the state accepts notice on behalf of the state-respondent and opposes the grant of the anticipatory bail while submitting that the petitioner has been specifically named in the FIR, who was accompanying his father to collect money from the complainant. He further submits that huge amount of recovery is yet to be effected for which custodial interrogation of the petitioner is required.

4. **Analysis**

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 against the petitioner is serious and specific. He is not a mere bystander or an incidental link in the transaction, but a direct recipient of a large sum of money, which was allegedly collected under false pretences. Crimes involving fake promises of having links with the higher authorities have reached alarming proportions in recent years. These frauds are

frequently orchestrated by agents and touts who operate outside the regulatory net.

This High Court in case of *Sarabjit kaur vs State of Punjab CRM-52017 OF 2022* while relying upon the case law of the Apex Court in *Madhya Pradesh vs Pardeep Sharma (2014) 2 SCC 171*, has inter alia observed that the crime of cheating, duping and fraud is rampant in our society and is often adopted by fraudsters and unscrupulous persons. This has become a cakewalk to amass wealth illegally over night which needs to be curbed with an iron hand to save the innocent people.

This Court is also conscious of the growing prevalence of such rackets and the urgent need to adopt a stringent approach to deter such conduct. *Prima facie*, the petitioner, having actively participated in the financial transaction cannot be permitted to evade investigation. His custodial interrogation is necessary to ascertain the full extent of the conspiracy and to trace the funds.

The mere contention that the petitioner is ready and willing to join the investigation does not vest a right for grant him anticipatory bail because an element of cheating is involved in it. 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 herein below:-

“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.”

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.”

5. Relief

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 herein above shall not be construed to be an expression of opinion on the merits of the case.

(SANDEEP MOUDGIL)
JUDGE

25.04.2025
Anuradha (v)

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