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IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

CRM-M No.21192 of 2025
Date of decision: 04.07.2025

Anil Kumar and others ... Petitioners

Vs.

State of Punjab ... Respondent

CORAM: HON'BLE MRS. JUSTICE MANISHA BATRA

Present:- Mr. Rhythem Bajaj, Advocate,
for the petitioners.

Ms. Himani Arora, AAG, Punjab,
for the respondent-State.

MANISHA BATRA, J. (Oral)

1. The present petition has been filed by the petitioners under Section 482 of the Bharatiya Nagarik Suraksha Sanhita, 2023 (For short “BNSS”) seeking anticipatory bail in the FIR mentioned below:-

FIR No.	Dated	Police Station	Sections
119	09.12.2024	Kabarwala, District Sri Muktsar Sahib	331(4) and 305 of the Bharatiya Nyaya Sanhita, 2023 (For short “BNS”)

2. Brief facts relevant for the purpose of disposal of the present petition are that the aforementioned FIR was registered on the basis of a

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complaint lodged by the complainant Jagtar Singh alleging therein that Basmati paddy was lying in the courtyard of his house which was found stolen in the morning of 05.12.2024. He alleged that since CCTV camera was installed in his house, he had checked the same and one person was found committing theft of paddy on the intervening night of 04/05.12.2024. He further alleged that on the intervening night of 07/08.12.2024 also again theft of paddy was committed from his house. He kept a vigil in the next night and found a person climbing from the wall and entering into his house. The said person started filling sacks of paddy and then the complainant identified him as accused Bhunsi son of Sukhvir who managed to flee at that time. While alleging that paddy worth Rs.24,000/- had been stolen by the abovesaid Bhunsi, he prayed for taking action in the matter. After registration of FIR, investigation proceedings were initiated. The accused Yadwinder Singh @ Bhunsi was arrested on 22.12.2024. He suffered disclosure statement to the effect that he had sold the stolen paddy to the present petitioners. On the basis of his statement, the petitioners were nominated as accused. Offence under Section 317(2) of BNS was added. Apprehending their arrest, the petitioners moved application for grant of pre arrest bail which was dismissed by the Court of learned Additional Sessions Judge, Sri Muktsar Sahib vide order dated 07.04.2025.

3. It is argued by learned counsel for the petitioners that they have

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been falsely implicated in this case on the basis of disclosure statement of the co-accused which cannot be considered to be admissible in evidence. They were not named in the FIR. No recovery is to be effected from them. They are ready to join the investigation. Their custodial interrogation is not required. It is, therefore, argued that they deserve to be extended benefit of pre arrest bail.

4. Status report has been filed by the respondent-State. It is argued by learned Assistant Advocate General, Punjab that the paddy crops stolen from the house of the complainant and other victims by the accused Yadwinder Singh had been sold to the present petitioners. They as such actively participated in the commission of offence of receipt of stolen property. Their custodial interrogation is must for conducting thorough investigation as well as for recovery of the stolen property. Even otherwise, no exceptional or extraordinary circumstance for grant of pre arrest bail has been made out. Therefore, it is urged that the petition does not deserve to be allowed.

5. This Court has considered the rival submissions.

6. The petitioners are alleged to have purchased stolen paddy from the co-accused Yadwinder Singh @ Bhunsi. There are specific allegations against them. For conducting thorough and proper investigation in the matter, the custodial interrogation of the petitioners is must. It is well settled proposition of law that arrest is a part of procedure

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of the investigation to secure not only the presence of the accused but several other purposes. The powers of anticipatory bail are extra ordinary and the same are to be exercised sparingly in exceptional circumstances. The judicial discretion conferred upon the Court has to be properly exercised after application of mind as to the nature and gravity of the accusation, possibility of applicant's fleeing from justice and other factors to decide whether it is a fit case for grant of anticipatory bail as such grant to some extent interferes in the sphere of investigation of an offence. The custodial interrogation of a suspected person is qualitatively more elicitation oriented than questioning a suspect who is well ensconced with a favourable order of anticipatory bail. The Court must be circumspect while exercising such power for grant of anticipatory bail and it should not be granted as a matter of rule and has to be granted only when the Court is convinced that exceptional circumstances exist to resort to that extra ordinary remedy. In the present case, no such exceptional circumstances warranting exercise of the powers for grant of anticipatory bail by this Court are existing. Keeping in view the gravity thereof, the role attributed to the petitioners, the likelihood of their influencing the course of investigation and also of tampering with the evidence, no ground has been made out for allowing the petition. As such, this Court is of the considered opinion that the petition does not deserve to be allowed. Accordingly, the same is dismissed.

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7. It is, however, clarified that observations made hereinabove shall not be construed as an expression of opinion on the merits of the case.

04.07.2025
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(MANISHA BATRA)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes/No
Yes/No