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

**CRM-M No.22874 of 2025
Date of Decision: 30.04.2025**

Naeem Khan**..... Petitioner****Versus****State of Haryana****..... Respondent****CORAM : HON'BLE MR. JUSTICE RAJESH BHARDWAJ**

Present: Mr. Mohan Singh Rana, Advocate
for the petitioner.

RAJESH BHARDWAJ, J.

1. Present petition has been filed praying for the grant of pre-arrest bail to the petitioner in case bearing FIR No.146, dated 04.04.2025, under Sections 318(4) & 62 of BNS, 2023, registered at Police Station DLF Sector 29, District Gurugram, Haryana (Annexure P-1).

2. Succinctly the facts of the case are that FIR in the present case was registered on the statement of complainant, namely, Neeraj Kumar. It was alleged that he was working at the Indian Oil Petrol Pump for the last 05 years. On 04.04.2025 at about 05:30 P.M., when he was standing outside the petrol pump, then salesman Vishal told him that ATM installed at their petrol pump was malfunctioning. Earlier also someone has created a mischief. He asked his employees to catch hold



the miscreants. When they ran towards the ATM, two boys came out from the room where ATM was installed. On seeing the pump employees, they ran towards the shed. One of the boys was caught by them, however the second boy managed to escape. These two boys were trying to commit some fraud by tampering with the ATM. Hence it was requested to take the legal action against both of them. On registration of the FIR, the investigation commenced. During the investigation, complicity of the petitioner was found and thus, he was arrayed as an accused in the present case. Apprehending his arrest, the petitioner approached the Court of learned Additional Sessions Judge, Gurugram praying for the grant of anticipatory bail. However after hearing both the sides, finding no merit in the same, the learned Additional Sessions Judge, Gurugram dismissed the petition filed by the petitioner vide his order dated 19.04.2025. Hence being aggrieved, the petitioner is before this Court by way of filing the present petition praying for the grant of anticipatory bail.

3. Learned counsel for the petitioner has vehemently contended that the petitioner has been falsely implicated in the present case. He has submitted that neither the petitioner is named in the FIR nor there is any overt act has been attributed to him. However he has been arrayed as an accused in the present case on the basis of disclosure statement of co-accused, which is not an admissible evidence. He has submitted that co-accused, namely, Deepak has already been released on bail by the learned trial Court. He has submitted that the petitioner is ready to join the



investigation and thus there being no prima facie case as alleged against the petitioner is made out, he deserves to be granted anticipatory bail.

4. Notice of motion.

5. On asking of the Court, Mr. Sumit Jain, Addl. A.G., Haryana appears and accepts notice on behalf of the respondent-State. He has vehemently opposed the submissions made by learned counsel for the petitioner. He has submitted that in the CCTV footage of petrol pump, the petitioner was seen running out of ATM. He has submitted that the petitioner is involved in 02 more cases. He has submitted that the investigation is at threshold and thus, no case for the grant of anticipatory bail to the petitioner is made out and the present petition being devoid of merit deserves to be dismissed.

6. Heard.

7. On hearing learned counsel for the parties and perusing the record, it is inferred that FIR in the present case was lodged by the complainant, when he found that 02 boys were trying to commit mischief in the ATM. One of the accused could be arrested on spot. It is on his disclosure, complicity of the petitioner was revealed. It was found that it was the petitioner, who managed to escape from the place of occurrence. As per the record, the petitioner is already facing prosecution in 02 other cases of the similar nature, i.e. FIR No.112/2025, under Sections 305, 303(2), 62 of BNS, registered at Police Station Loni, District Ghaziabad, UP and FIR No.53/2024, under Sections 356, 379 & 411 of IPC, registered at Police Station Saffarganj Enclave, Delhi. During the



investigation, CCTV footage of the petrol pump was obtained and complicity of the petitioner was substantiated from the same. Co-accused, namely, Deepak was arrested on the spot on 04.04.2025 and it is on his disclosure, the petitioner was arrayed as an accused in the present case. The investigation is at threshold.

8. For the consideration of anticipatory bail, the statutory parameters are given under Section 482 (1) & (2) BNSS which reads as under:-

“Direction for grant of bail to person apprehending arrest:

- 1. When any person has reason to believe that he may be arrested on an accusation of having committed a non-bailable offence, he may apply to the High Court or the Court of Session for a direction under this section; and that Court may, if it thinks fit, direct that in the event of such arrest, he shall be released on bail.*
- 2. 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.”*



9. As per the law settled by the Hon'ble Supreme Court, in ***Gurbaksh Singh Sibbia Vs. State of Punjab***, AIR 1980 SC 1632, while granting anticipatory bail, the Court is to maintain a balance between the individual liberty and the interest of society. However, the interest of the society would always prevail upon the right of personal liberty. The relevant part of the judgment is as follows:-

“31. *In regard to anticipatory bail, if the proposed accusation appears to stem not from motives of furthering the ends of justice but from some ulterior motive, the object being to injure and humiliate the applicant by having him arrested, a direction for the release of the applicant on bail in the event of his arrest would generally be made. On the other hand, if it appears likely, considering the antecedents of the applicant, that taking advantage of the order of anticipatory bail he will flee from justice, such an order would not be made. But the converse of these propositions is not necessarily true. That is to say, it cannot be laid down as an inexorable rule that anticipatory bail cannot be granted unless the proposed accusation appears to be actuated by mala fides; and, equally, that anticipatory bail must be granted if there is no fear that the applicant will abscond. There are several other considerations, too numerous to enumerate, the combined effect of which must weigh with the court while granting or rejecting anticipatory bail. The nature and seriousness of the proposed charges, the context of the events likely to lead to the making of the charges, a reasonable possibility of the applicant's presence not being secured at the trial, a reasonable apprehension that witnesses will be tampered with and "the larger interests of the public or the state"*



are some of the considerations which the court has to keep in mind while deciding an application for anticipatory bail. The relevance of these considerations was pointed out in State v. Captain Jagjit Singh (1962) 3 SCR 622, which, though, was a case under the old Section 498 which corresponds to the present Section 439 of the Code. It is of paramount consideration to remember that the freedom of the individual is as necessary for the survival of the society as it is for the egoistic purposes of the individual. A person seeking anticipatory bail is still a free man entitled to the presumption of innocence. He is willing to submit to restraints on his freedom, by the acceptance of conditions which the court may think fit to impose, in consideration of the assurance that if arrested, he shall be enlarged on bail.”

10. The Hon'ble Supreme Court in ***State Vs. Anil Sharma, (1997) 7SCC 187***, held as under:-

“6. *We find force in the submission of the CBI that custodial interrogation is qualitatively more elicitation oriented than questioning a suspect who is well ensconced with a favorable 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 materials 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 need 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.”

11. Weighing the facts of the case on the anvil of the law settled, it is apparent that the complicity of the petitioner has been prima facie found. Needless to say, the investigation is at the initial stage and in the facts and circumstances, custodial interrogation of the petitioner would be essential and granting anticipatory bail to the petitioner at this stage would scuttle the ongoing investigation.

12. In view of the overall facts and circumstances of the case, the petitioner does not qualify for the grant of anticipatory bail and the same is hereby dismissed. Nothing said herein shall be treated as an expression of opinion on the merits of the case.

30.04.2025

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

(RAJESH BHARDWAJ)
JUDGE