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

**CRM-M No.23153 of 2025
Date of Decision: 01.05.2025**

Ajay Kumar**..... Petitioner**

Versus

State of Punjab**..... Respondent**

CORAM : HON'BLE MR. JUSTICE RAJESH BHARDWAJ

Present: Mr. Vipin Mahajan, Advocate
for the petitioner.

RAJESH BHARDWAJ, J.

1. Present petition has been filed praying for the grant of anticipatory bail to the petitioner in case bearing FIR No.28, dated 05.04.2025, under Sections 108, 3(5) of BNS, 2023, registered at Police Station Purana Shalla, District Gurdaspur, Punjab.

2. Succinctly the facts of the case are that FIR in the present case was registered on the statement of complainant, namely, Tirath Ram. It was alleged that his son, namely, Bunty Kumar was married with Sonia about 11 years ago. They were blessed with two children. However there was a matrimonial discord between his son and daughter-in-law. For the reason, his daughter-in-law often used to live with her parents. It was alleged that his daughter-in-law was having illicit with Ajay Kumar (petitioner), son of Swatam Dass. He and his son time and again tried



their level best to make Sonia understand not to indulge in such relation but she never agreed. About 08 days ago, his daughter-in-law after having a dispute with his son went back to her parents' home. On 04.04.2025, he could not find his son and thus started searching him. When he went to his room, the same was found locked from inside. On calling him many times, he did not respond and thus, he broke open the window pane of the room. He found his son hanging by putting chunni around his neck in the room. They went inside the room, however, found that his son had already died. It was alleged that his son was harassed by his wife and Ajay Kumar (petitioner) and hence he had committed suicide. The request was made to take the legal action. On registration of the FIR, the investigation commenced. Apprehending his arrest, the petitioner approached the Court of learned Additional Sessions Judge, Gurdaspur praying for the grant of anticipatory bail. However after hearing both the sides, finding no merit in the same, the learned Additional Sessions Judge, Gurdaspur dismissed the petition filed by the petitioner vide his order dated 21.04.2025. 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 the allegations made against the petitioner of having extra marital relations with the wife of deceased are without any basis. He has submitted that there is no suicide note found in the present case and thus,



there are bald allegations made against the petitioner. He has submitted that no offence under Section 108 of BNS (306 of IPC) read with Section 45 of BNS (107 of IPC) is made out. He has submitted that merely because there are allegations of extra marital relations of petitioner with the wife of deceased, the essential ingredients of instigation are not made out against the petitioner. He has thus submitted that there being no prima facie case having been made out against the petitioner, he deserves to be granted anticipatory bail.

4. Notice of motion.

5. On asking of the Court, Mr. Tarun Aggarwal, Addl. A.G., Punjab 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 the allegations made against the petitioner are serious in nature. He has thus submitted that the investigation is at threshold and thus custodial interrogation of the petitioner is essential. He has submitted that no case for the grant of anticipatory bail to the petitioner is made out and thus 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 deciphered that son of the complainant, namely, Bunty Kumar had committed suicide by hanging. The allegations made in the FIR are that the petitioner was having extra marital relations with the wife of deceased. On account of this alleged relationship, there was a



matrimonial discord between the deceased and his wife. Time and again the efforts were being made to desist her from this relationship but to no avail. The deceased had allegedly committed suicide due to this relationship. The thrust of the argument raised by the learned counsel for the petitioner is that the offence of instigation under Section 45 of BNS (107 of IPC) is not made out in the facts and circumstances.

8. However this Court cannot ignore the fact that son of the deceased had died and suffered unnatural death by committing suicide by hanging. The investigation is at threshold.

9. 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."*

10. 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."

11. 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.”

12. 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. Allegations made against the petitioner are serious in nature. 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.

13. 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.

01.05.2025

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

(RAJESH BHARDWAJ)
JUDGE