



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

**CRM-M No.23517 of 2025
Date of Decision: 01.05.2025**

Rajesh Narwal

..... Petitioner

Versus

State of Haryana

..... Respondent

CORAM : HON'BLE MR. JUSTICE RAJESH BHARDWAJ

Present: Mr. Aman Pal, 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.48 (Annexure P-1), dated 22.02.2025, under Sections 406, 420, 506 of IPC and Section 24 of Emigration Act, registered at Police Station Barauda, District Sonipat.
2. Succinctly the facts of the case are that FIR in the present case was got registered on the statement of complainant, namely, Narender Kumar. It was alleged that in March, 2024, the complainant contacted his relative, Vikram on phone and desired to send his son, namely, Nishant abroad. Vikram gave him the phone number of Rajesh Narwal @ Kanshi (petitioner) and thus, he contacted Rajesh Narwal @ Kanshi, who told him that he will charge Rs.40 Lakhs for sending his son to America. Petitioner took the passport of Nishant (son of complainant) in May, 2024. Rajesh Narwal @ Kanshi came to complainant's house and gave him 3000 Dollars. He asked to give cash and hence the complainant



delivered Rs.5,00,000/- to him in cash through his agent Krishna Lal. On asking of Rajesh Narwal @ Kanshi, he sent his son Nishant to Delhi on 25.05.2024, where they met a person, who gave his son's passport, ticket and visa. The visa was for Dubai. His son boarded Safai Jet on 27.05.2024 and landed in Dubai in the next morning. His son stayed in Dubai and then he was called back to Delhi. Thereafter Rajesh Narwal @ Kanshi sent his son to Sri Lanka for 15 days and again he was called back to Mumbai. The complainant refused to send his son abroad and asked Rajesh Narwal @ Kanshi to return his amount, i.e. Rs.5,00,000/-. Then Rajesh Narwal @ Kanshi told that the expenses have increased. He assured him to send his son to America in 10-15 days. Thereafter he sent his son from Mumbai to Guyana and thus by misguiding him, he sent his son to various countries, i.e. Guyana, Brazil, Bolivia, Peru, Ecuador, Colombia, Capurgana, Costa Rica, Honduras and Guatemala, from there his son was sent to Mexico. After staying in Mexico for about a month, on 13.01.2025, he was made to enter America from Tijuana border. However his son Nishant was caught by American police, where he was kept in jail for 20 days. After that on 02.02.2025, his son was deported from America and sent back to India. His son was dropped at Amritsar Airport on 05.02.2025. It was thus alleged that Rajesh Narwal @ Kanshi had asked for Rs.40 Lakhs to send his son to America which he paid in cash to him. It was thus prayed that the complainant was cheated by Rajesh Narwal @ Kanshi on the pretext of sending his son to US and thus he has been duped of Rs.40 Lakhs. Hence the request was made to take



the legal action against him. On registration of the FIR, the investigation commenced. Apprehending his arrest, the petitioner approached the Court of learned Additional Sessions Judge, Sonapat praying for the grant of anticipatory bail. However after hearing both the sides, finding no merit in the same, the learned Additional Sessions Judge, Sonapat declined the same vide his order dated 23.04.2025. 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 and frivolously implicated in the present case. He has submitted that the petitioner has never taken any money from the complainant or his family members as alleged. He has submitted that the allegations made in the FIR are bald allegations without any basis. He has submitted that there is no credible evidence regarding the payment of hefty amount of Rs.40 Lakhs to the petitioner as alleged by the complainant. He has submitted that there is an unexplained delay of about 9-10 months in lodging the FIR. He has submitted that son of the petitioner returned to Amritsar on 05.02.2025 whereas the FIR has been registered on 22.02.2025 and thus there is no explanation regarding the delay in lodging the FIR. He has submitted that no prima facie offence as alleged against the petitioner is made out for the offence under Sections 406, 420 of IPC. He has submitted that the petitioner owns a good reputation as he is not involved in any other case. He has submitted that the petitioner is ready to join the investigation and



thus he 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. *Per contra*, he has opposed the submissions made by learned counsel for the petitioner. He has submitted that complicity of the petitioner is writ large and thus no case for the grant of anticipatory bail to the petitioner is made out and the present petition deserves to be dismissed.

6. Heard.

7. On hearing learned counsel for the parties and on the bare reading of the allegations made in the FIR, it is inferred that there are specific allegations made by the complainant of having paid the hefty amount of Rs.40 Lakhs on the assurance that son of the complainant would be sent to US. The complainant has given the details of the countries to which his son was sent. After travelling through various countries, complainant's son was finally caught by the American Police while entering from Mexico in US.

8. Needless to say that cases of such nature are on rise. Son of the complainant was finally caught by the US police and thus he was deported to India on 05.02.2025 where he landed in Amritsar. Allegations made against the petitioner are serious in nature. A free and fair investigation is essential for unravelling the mystery.



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 the cases of such nature are on rise 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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(RAJESH BHARDWAJ)
JUDGE
Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No