

2025:PHHC:075116



IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M No.24870 of 2025
Date of Decision: 29.05.2025
Reserved on: 22.05.2025

Sarabjeet Singh ... Petitioner
Versus
State of Punjab ... Respondent

CORAM: HON'BLE MRS. JUSTICE MANISHA BATRA

Present: Mr. Gopal Sharma, Advocate,
for the petitioner.

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

Mr. Veneet Sharma, Advocate,
for the complainant.

MANISHA BATRA, J.

1. The present petition has been filed by the petitioner 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
71	20.07.2024	Maqboolpura, District Police Commissionerate Amritsar	406, 465, 471 and 120-B of IPC (323, 467 and 468 of IPC added later on)

2. As per the allegations, the complainant was running business of sale and purchase of gold ornaments. The petitioner and his family membes who are related to the complainant, had induced the complainant to give gold ornaments to them on credit basis by assuring that they would further sell the same and would share the profit so earned and

2025:PHHC:075116



would also return the unsold gold ornaments to the complainant. Believing the representations made by the petitioner and his family members i.e. co-accused to be true, the complainant had started giving gold ornaments to them and they earned his trust by honouring the transactions initially made with the complainant. As per the further allegations, on 23.05.2024, the accused Gurmeet Singh and Harjeet Kaur who are parents of the present petitioner went to the house of the complainant along with the co-accused Harmeet Singh and Harwinder Singh and told him that they had received a big order for sale of gold ornaments and would be fetching huge profits. They further represented that the present petitioner was having the prospective buyers with him and they were waiting for jewellery at that very point of time. They took gold jewellery items of different types and weighing 1290.64 gram having value of approximately Rs.92 lakhs from the complainant. They also made the complainant talk to the petitioner who assured to give back the unsold jewellery and profits within two days. However, subsequently, the petitioner and the co-accused told the complainant that gold ornaments given by him have been confiscated from the petitioner by Custom Department. They even showed a receipt purported to be issued by the Custom Department regarding confiscation of gold, however, on making inquiries, the complainant came to know that no such confiscation had been made and a false story had been concocted by the petitioner and co-accused and he had been cheated. He reported the matter to the police and the aforementioned FIR was registered. The co-accused were arrested. The petitioner, however, absconded. He moved an application for

2025:PHHC:075116



pre arrest bail on 29.01.2025 which has been dismissed by the Court of learned Additional Sessions Judge, Amritsar vide order dated 17.03.2025.'

3. It is argued by learned counsel for the petitioner that he has been falsely implicated in this case by the complainant to settle score with his family. Infact, a verbal altercation had taken place between the petitioner and the family of the complainant on 27.05.2024 and thereafter this FIR was got registered against him. No role was attributed to him. His presence at the time of taking gold ornaments from the complainant have not been shown. His family members were arrested and have been extended benefit of bail. Challan has also been presented against them. There is delay of more than one and half months in lodging the FIR. He is ready to join the investigation. His custodial interrogation is not required. No recovery is to be effected from him as the complainant already released 277.54 gram of gold ornaments and cash amount of Rs.4.5 lakhs after arrest of the co-accused. He has clean antecents. With these broad submissions, it is urged that the petition deserves to be allowed.

4. Status report has been filed. Learned Assistant Advocate General, Punjab assisted by learned counsel for the complainant has vehemently argued that there are serious and specific allegations against the petitioner who by hatching conspiracy with his family members to cause wrongful loss to the complainant and his family members, had induced them to part with huge quantity of gold ornaments having value of about Rs.92 lakhs and had duped the complainant by saying that those ornaments had been confiscated by the Custom Department from the petitioner when he

2025:PHHC:075116



was selling the same to some customers. The petitioner and the co-accused even prepared some false and fabricated receipt qua confiscation by Customs Department. His custodial interrogation is must not only for effecting recovery of the gold taken by him but also for conducting thorough investigation in the matter. No exceptional or extraordinary circumstance for grant of bail has been made out in his favour. It is, therefore, urged that the petition does not deserve to be allowed.

5. This Court has considered the rival submissions.

6. The petitioner is alleged to have hatched a conspiracy with the co-accused and created a false story of his detention at Delhi Airport and confiscation of gold given to the co-accused by the complainant. He is also alleged to have prepared a fake receipt purported to be issued by the Customs Department. The co-accused who are his family members were arrested. The petitioner had been absconding. Proclamation proceedings have been initiated against him and proclamation had been ordered to be issued against him by the learned Jurisdictional Magistrate for 23.05.2025. It is well settled proposition of law that once proclamation proceedings are initiated against an accused, he cannot invoke jurisdiction of Court for seeking grant of pre arrest bail. Reference in this regard can be made to the observations made by Hon'ble Supreme Court in **Srikant Upadhyay and others v. State of Bihar and another**, AIR 2024 SC 1600, wherein it was observed that when warrant of arrest or proclamation is issued, the accused is not entitled to invoke the extraordinary power. Reference can also be made to **Prem Shankar Prasad v. State of Bihar and another**, (2022) 14

2025:PHHC:075116



SCC 516, wherein the Hon'ble Supreme Court took note of the fact that the accused was absconding and concealing himself to avoid execution of warrant of arrest and had moved application for grant of pre arrest bail after proclamation proceedings were initiated against him. His plea for pre arrest bail was rejected. In the instant case also, the petitioner has filed this application when warrant of arrest has already been issued against him. Now even proclamation proceedings have been initiated. Though neither counsel for the petitioner nor of complainant could assist this Court in showing that the petitioner has been declared a proclaimed person on 23.05.2025 by the trial Court or not still, the fact that proclamation proceedings have been initiated could not be controverted. As such, this Court is of the considered opinion that the petitioner does not deserve to be extended benefit of anticipatory bail which even otherwise is an extraordinary remedy to be given in exceptional circumstances. In view of the discussion as made above, it is held that the petition does not deserve to be allowed and the same is dismissed.

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

8. This order shall come into force from the time it is uploaded on this Court's official webpage.

(MANISHA BATRA)
JUDGE

29.05.2025
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Whether speaking/reasoned
Whether reportable

Yes/No
Yes/No