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

CRM-M-37235-2025

Date of decision : 26.09.2025

**ABHISHEK****... Petitioner****Versus****STATE OF HARYANA****...Respondent****CORAM: HON'BLE MR. JUSTICE JASJIT SINGH BEDI**

Present: Mr. R.S. Mamli, Advocate  
for the petitioner.

Mr. Viney Phogat, DAG, Haryana.

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**JASJIT SINGH BEDI, J.**

The prayer in the present petition under Section 482 BNSS, 2023 is for the grant of anticipatory bail to the petitioner in case FIR No.138 dated 21.06.2025 registered under Sections 406, 420 IPC and Sections 10 & 24 of the Immigration Act at Police Station Radaur, District Yamuna Nagar.

2. The brief facts of the case are that the present FIR was lodged on the complaint of Som Kumar (hereinafter to be referred as the complainant) alleging that the petitioner/accused came in contact with his son, namely Akshit and the son of Anil Kumar, namely Lakshay through a social media platform. The petitioner/accused met Akshit and Lakshay at Radaur, where the petitioner/accused demanded a sum of Rs. 3,50,000/- each for sending them to Armenia. In September 2023, the petitioner assured Akshit and Lakshay that after making the payment, he would send them to Armenia within three months. Akshit paid Rs.

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1,82,500/- to the petitioner through online mode, whereas on the insistence of the petitioner, Anil paid Rs. 3,50,000/- in cash to the petitioner. After the petitioner shared Visas through WhatsApp on Akshit's mobile phone, on 08.10.2023, the complainant paid Rs. 1,67,500/- in cash to the petitioner. However, the petitioner did not send Akshit and Lakshay abroad. Later on, the petitioner handed over cheques of Rs 3,50,000/- each to the complainant and Anil Kumar as guarantees. The petitioner played fraud upon the complainant and Anil, and duped them of Rs. 3,50,000/- each. Therefore, on the basis of above said allegations the formal F.I.R was registered under Sections 406,420 IPC and Section 10 and 24 of the Emigration Act, 1983.

3. The learned counsel for the petitioner contends that the petitioner has been falsely implicated in the present case. In fact, one Gurpreet Singh is the main accused. The petitioner had only introduced the complainant with Gurpreet Singh who was in the business of sending persons abroad. Pursuant to the receipt of money from the complainant, the petitioner had transferred an amount of Rs.5,25,000/- to Gurpreet Singh via online mode. Gurpreet Singh had issued cheques to the petitioner. The petitioner had also issued cheques from the accounts of his father Vinod Kumar. The petitioner had lodged a complaint against Gurpreet Singh regarding the present occurrence. As the petitioner had joined investigation and had cooperated with the same, he is entitled to the concession of anticipatory bail.



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4. A report dated 22.09.2025 by way of an affidavit of Ashish Chaudhry, HPS, Deputy Superintendent of Police Radaur, District Yamuna Nagar has been filed on behalf of the State by the learned counsel for the State. The same is taken on record. While referring to the reply, he contends that as per the FIR, the money was received by the petitioner. As a security, two cheques were issued by him from the account of his father Vinod Kumar. The transactions between the petitioner and Gurpreet Singh are independent of the transaction between the complainant and the petitioner. The defence version has been set up by the petitioner in his complaint to the Police dated 25.04.2024 (Annexure P-8). As the offence stands *prima facie* established and the investigation is to be taken to its logical conclusion, the custodial interrogation of the petitioner is certainly required and therefore, he is not entitled to the concession of anticipatory bail.

5. I have heard the learned counsel for the parties.

6. The Hon'ble Supreme Court in the case of ***Sumitha Pradeep Vs. Arun Kumar C.K. & Anr.*** 2022 Live Law (SC) 870 held that merely because custodial interrogation was not required by itself could not be a ground to grant anticipatory bail. The first and the foremost thing the Court hearing the anticipatory bail application is to consider is the *prima facie* case against the accused. The relevant extract of the judgment is reproduced hereinbelow:-

*“It may be true, as pointed out by learned counsel appearing for Respondent No.1, that charge-sheet has already been filed. It will be unfair to presume on our part*



*that the Investigating Officer does not require Respondent No.1 for custodial interrogation for the purpose of further investigation.*

*Be that as it may, even assuming it a case where Respondent No.1 is not required for custodial interrogation, we are satisfied that the High Court ought not to have granted discretionary relief of anticipatory bail.*

*We are dealing with a matter wherein the original complainant (appellant herein) has come before this Court praying that the anticipatory bail granted by the High Court to the accused should be cancelled. To put it in other words, the complainant says that the High Court wrongly exercised its discretion while granting anticipatory bail to the accused in a very serious crime like POCSO and, therefore, the order passed by the High Court granting anticipatory bail to the accused should be quashed and set aside. **In many anticipatory bail matters, we have noticed one common argument being canvassed that no custodial interrogation is required and, therefore, anticipatory bail may be granted. There appears to be a serious misconception of law that if no case for custodial interrogation is made out by the prosecution, then that alone would be a good ground to grant anticipatory bail. Custodial interrogation can be one of the relevant aspects to be considered along with other grounds while deciding an application seeking anticipatory bail. There may be many cases in which the custodial interrogation of the accused may not be required, but that does not mean that the prima facie case against the accused should be ignored or overlooked and he should be granted anticipatory bail. The first and foremost thing that the court hearing an anticipatory bail application should consider is the prima facie case put up against the accused. Thereafter, the nature of the offence should be***



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*looked into along with the severity of the punishment. Custodial interrogation can be one of the grounds to decline custodial interrogation. However, even if custodial interrogation is not required or necessitated, by itself, cannot be a ground to grant anticipatory bail.*

7. As per the allegations the complainant and Anil Kumar have been cheated of a huge amount of money. In order to provide a guarantee for the receipt of money, the petitioner handed over two cheques of Rs.3,50,000/- each to the complainant and Anil Kumar from the account of his father. The transactions between the petitioner and Gurpreet Singh have nothing to do with the transactions between the complainant party and the petitioner. As the offence stands *prima facie* established and the investigation is to be taken to its logical conclusion, the custodial interrogation of the petitioner is certainly required.

8. In view of the aforementioned discussion, I find no merit in the present petition. Therefore, the same stands dismissed.

9. However, the observations made hereinabove are only for the purposes of deciding this bail petition and the Trial Court is free to adjudicate upon the matter on the basis of the evidence led before it uninfluenced by any such observations made herein.

(JASJIT SINGH BEDI)  
JUDGE

26.09.2025

JITESH

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