



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

285

**CRM-M-36958-2025(O&M)
Decided on: 23.09.2025**

AMIT KUMAR SINGH

... Petitioner(s)

Versus

STATE OF HARYANA

... Respondent(s)

CORAM: HON'BLE MS. JUSTICE KIRTI SINGH

PRESENT: Mr. Nitin Bhanwala, Advocate
for the petitioner(s).

Mr. Anmol Malik, DAG, Haryana.

KIRTI SINGH, J. (Oral)

Apprehending arrest in FIR No.80 dated 24.02.2025, registered under Sections 123, 125, 3(5), 61, 88, 91, 92 & 318(4) of BNS Act, 2023 and Sections 3, 4, 5 of the Medical Termination of Pregnancy Act, 1971, at Police Station Thanesar City, Kurukshetra, the petitioner has preferred this petition under Section 482 BNSS, 2023 for grant of pre-arrest bail.

2. The FIR in the present case was got registered on the basis of the complaint moved by one Dr. Gaurav Bansal, Dental Surgeon and the Drug Control Officer, Kurukshetra stating therein that online sale of MTP kits is being done illegally through the website www://maataramarket.in without the prescription from a registered medical practitioner, to facilitate medical termination of pregnancy in contravention of the MTP Act, 1971. Taking such a pill comprised in the kit is of grave concern and can lead to major complications, and may even prove fatal in some cases. It was detailed therein that to verify the same, the complainant along with drug Control Officer Gulshan Kumar placed an order for two MTP kits on 17.02.2025 from the said website, whereupon they received messages



regarding confirmation of the order, dispatch of product, its shipment and its delivery. It was also contained in the said complaint that details of invoice received nowhere mentions the retail sale drugs license and many other statutory details, as mandated under the Drugs Cosmetics Act and the rules framed thereunder. On the basis of this complaint, First Information Report was registered.

3. Learned counsel for the petitioner *inter alia* submits that the petitioner has been falsely implicated in this case. The petitioner is the proprietor of Maa Durga Drug Agencies, licensed to sell, stock, exhibit, or distribute medicines by wholesale from his premises at Bhagalpur, Bihar. The license, issued by the Government of Bihar under Form 21B (License No.BR-BHR-129715), is valid from 25.09.2020 to 24.09.2025. It is submitted that the petitioner has been nominated as an accused solely on the basis of the disclosure statement of the main accused, Ritesh Kumar, who is a retailer in the supply chain. The petitioner, being a licensed wholesaler, cannot be held liable for the unauthorized acts of a retailer, especially when there is no evidence to suggest that the petitioner was complicit to the alleged illegal activities purportedly being carried out by the main accused. The petitioner maintains proper records of all sales, invoices, and other compliance's and acts strictly within the parameters of his license. It is the further contention that mere sale of MTP kits does not constitute an offence under the MTP Act, 1971, in support of which reliance is placed on the judgment dated 02.08.2019 titled as "**Sandeep Bhargava Vs. State of Haryana**". Moreover, no recovery is to be effected from the petitioner, who is willing to join investigation and co-operate in the instant FIR as well. The petitioner has previously been granted the concession of regular bail in similar FIRs registered against him in Sonipat (FIR No. 51/2025, Annexure-P/3) and HUDA Jagadhari (FIR No. 50/2025, Annexure-P/4). Therefore, the



custodial interrogation of the petitioner would serve no useful purpose. Reference is also made to the judgment dated 13.01.2022 passed in ***Dinesh Garg Vs. State of Haryana***.

4. Learned State counsel while relying upon the contents of the status report submits that the present case involves grave allegations qua the illegal sale of medical termination of pregnancy (MTP) kits. The petitioner was nominated as accused on the statement of co-accused-Ritesh Kumar, accused of selling MTP kits online without a valid license and in violation of the provisions of the Drugs and Cosmetics Act, 1940, and MTP Act 1971; who in his disclosure statement admitted that he had purchased approximately 10–15 MTP kits at a time from the petitioner, and that, to date, he has sold around 250 kits. Although the petitioner now claims to be a licensed wholesaler, the definition of “wholesaler” only encompasses sale by way of wholesale to a person for the purpose of selling again, including sales to hospitals, dispensaries, medical, educational, or research institutions. Learned State counsel further submits that the petitioner has violated Section 18(c) of the Drugs and Cosmetics Act, 1940, which prohibits the manufacture, sale, stock, or distribution of drugs except in accordance with the conditions of a valid license, read with Rule 65. Further, the license issued to the petitioner is not for sale of drugs falling under category H. Even otherwise, there is a violation of Conditions of License under Form 20-B and 21-B, Point No. 3(ii), which prohibits sale of drugs to a person not holding the requisite license to sell, stock, or distribute the drug, except in cases of government authorities, hospitals, medical or research institutions, or registered medical practitioners for the supply to patients. Insofar as reliance has been placed by learned counsel for the petitioner on the case of *Dinesh Garg* (supra) is concerned, it is submitted that facts in that case are distinguishable from those of the present case.

It is further submitted that given the vast extent of the purported crime, four other FIRs have been registered against the petitioner, which are as follows:

Sr. No.	FIR and P.S.	Under Sections	Current Status
1	FIR No. 51 dated 21.02.2025, police station Sector-27, Sonipat Haryana	under sections 3, 4 and 5 of Termination of Pregnancy Act, 1971 and Section 123, 125(3)(5), 318 (4), 61, 88,91 and 92 of BNSS, 2023	On Bail, and he is facing trial.
2	FIR No. 50 dated 16.02.2025, police station Sector-17, HUDA, Jagadhari Haryana	under sections 3, 4 and 5 of Termination of Pregnancy Act, 1971 and Section 123, 125(3)(5), 318 (4), 61, 88,91 and 92 of BNSS, 2023	On Bail, and next date of hearing is fixed on 13.10.2025 for framing the charge.
3	FIR No. 53 of 2025, Police Station Civil Lines Jind, Haryana	under sections 3, 4 and 5 of Termination of Pregnancy Act, 1971 and Section 123, 125(3)(5), 318 (4), 61, 88,91 and 92 of BNSS, 2023.	On Bail, and next date of hearing is fixed 09.09.2025 for appearance of the accused/petitioner.
4	FIR No. 116 of 2025, Police Station City Sirsa, Haryana	under sections 3, 4 and 5 of Termination of Pregnancy Act, 1971 and Section 123, 125(3)(5), 318 (4), 61, 88,91 and 92 of BNSS, 2023.	On Bail, and next date of hearing is fixed on 09.09.2025 for framing the charge.

With respect to the submission that sale of MTP kits is not a punishable offence, it is contended that sale of MTP kits facilitates termination of pregnancy without adherence to the provisions of the MTP Act, and as such, an illegal act. Attention is also drawn in this regard to Section 5(2) of the MTP Act, which reads thus,

“Notwithstanding anything contained in the Indian Penal Code (45 of 1860), the termination of pregnancy by a person who is not a registered medical practitioner shall be an offence punishable with rigorous imprisonment for a term which shall not be less than two years but which may extend to seven years under that Code, and that Code shall, to this extent, stand modified.”



It is therefore, prayed that the present petition seeking the concession of anticipatory bail be dismissed.

5. Heard the rival submissions made by either side.

6. In ***Srikant Upadhyay and others vs. State of Bihar and another, 2024 (INSC) 202 (SC)***, Hon'ble Supreme Court held as under:

*“It is thus obvious from the catena of decisions dealing with bail that even while clarifying that arrest should be the last option and it should be restricted to cases where arrest is imperative in the facts and circumstances of a case, the consistent view is that the grant of anticipatory bail shall be restricted to exceptional circumstances. In other words, the position is that the power to grant anticipatory bail under Section 438, Cr.P.C. is an exceptional power and should be exercised only in exceptional cases and not as a matter of course. Its object is to ensure that a person should not be harassed or humiliated in order to satisfy the grudge or personal vendetta of the complainant. (See the decision of this Court in *HDFC Bank Ltd. v. J.J.Mannan & Anr.* 2010 (1) SCC 679).*

*Further, it was clearly observed in para NO. 24 of the judgment (supra) that “**though in many cases it was held that bail is said to be a rule, it cannot, by any stretch of imagination, be said that anticipatory bail is the rule.** It cannot be the rule and the question of its grant should be left to the cautious and judicious discretion by the Court depending on the facts and circumstances of each case. While called upon to exercise the said power, the Court concerned has to be very cautious as the grant of interim protection or protection to the accused in serious cases may lead to miscarriage of justice and may hamper the investigation to a great extent as it may sometimes lead to tampering or distraction of the evidence. We shall not be understood to have held that the Court shall not pass an interim protection pending consideration of such application as the Section is destined to safeguard the freedom of an individual against unwarranted arrest and we say that such orders shall be passed in eminently fit cases. At any rate, when warrant of arrest or proclamation is issued, the applicant is not entitled to invoke the extraordinary power. Certainly, this will not deprive the power of the Court to grant pre-arrest bail in extreme, exceptional cases in the interest of justice. But then, person(s) continuously, defying orders and keep absconding is not entitled to such grant.”*



7. In *Sushila Aggarwal v. State (NCT of Delhi) (2018) 7 SCC 731*, the Constitution Bench reaffirmed that while considering applications for anticipatory bail, courts should consider factors such as the nature and gravity of the offences, the role attributed to the applicant, and the specific facts of the case.

8. The general rule, put tersely, may be of bail, no jail; however, a just exception may be taken where there are circumstances which might thwart the course of justice. The antecedents of the accused or the probability of the accused fleeing, intimidating witnesses or tampering with the evidence, *inter alia*, weigh in heavy before the Court when dealing with a petition for the grant of anticipatory bail.

9. *Prima facie*, the allegations against the petitioner are serious and specific, involving illegal sale and distribution of MTP kits in violation of the prevalent laws. Commission of such an offence has far reaching social implications, having the potential of causing a health and safety hazard to the public. Under such circumstances, this Court does not deem it appropriate to grant the discretionary relief of anticipatory bail to the petitioner in the instant case, wherein his custodial interrogation may be necessary to unravel the nexus, if any, and the full extent of the alleged offence.

10. The petition is dismissed.

11. Pending miscellaneous application(s), if any, also stands disposed of.

(KIRTI SINGH)
JUDGE

23.09.2025

Kavita

Whether speaking/reasoned:	Yes/No
Whether Reportable:	Yes/No