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2025:PHHC:088514



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

**CRM-M-38056-2025
DECIDED ON: 18.07.2025**

VIKRAM BAKSHI**.....PETITIONER****VERSUS****STATE OF HARYANA****.....RESPONDENT****CORAM: HON'BLE MR. JUSTICE SANDEEP MOUDGIL**

Present: Mr. Fateh Saini, Advocate
for the petitioner.

SANDEEP MOUDGIL, J (ORAL)

1. Relief sought

The jurisdiction of this Court has been invoked under section 482 of BNSS, 2023 for grant of concession of anticipatory bail to the petitioner in case FIR No. 330, dated 17.05.2025, under Section 61(2), 318(4), 336(3), 338, 340(2) of BNS, registered at Police Station Yamuna Nagar City, District Yamuna Nagar (Annexure P-1).

2. Prosecution story setup in the present case as per the version in the FIR as under:-

“At present a local application no. 1550-L dated 02.12.2024 and subsequent investigation complaint no. 0.3578 dated 12.05.2025 and order has been received at Bajaria Dak Police Station from the office of the Superintendent of Police, Yamuna Nagar to register a case and conduct an investigation. The application is presented as follows: To, Mr. S.H.O Sahib, City Police Station, Yamuna Nagar Subject - About selling property

by fraudulently creating a property ID. It is requested that I am Yogesh Sharma, son of Raj Kumar, resident of 1803 Sec-8, Faridabad. I had taken a stay from the court on my property which is in Tagore Garden, House No.16, near Bypass Road, Yamuna Nagar. Vikram and Vishal fraudulently created a new property ID and sold my property worth crores of rupees at a low price to another party on 5-11-2024 with Vacancy No. 5442. In Court, in Case No.473/2024, a stay was obtained from the honorable court on 7-3- 2024. Vikram or Vishal Bakshi created a new property ID from this property ID IKFMM848, and sold my property to Shashi and Shubham Sethi at low prices. Please take strict action against them. SD Yogesh Sharma Yogesh Sharma son of Raj Kumar Sharma resident of House No. 1803 Sector-8 Faridabad Tehsil and District Faridabad Mobile No. 9999180100 ”

3. **Contention**

On behalf of the petitioner

Learned counsel for the petitioner submits that the petitioner has been falsely implicated in the present case and no role whatsoever has been attributed to the petitioner. He has also drawn the attention of this Court to the fact that the interim stay order dated 07.03.2024, which pertained to the alienation of the property in question, was not extended by the Court. Therefore, there was no subsisting restraint against the petitioner regarding the said property.

It is further submitted that the petitioner and the complainant are related, and the dispute is of a civil nature. The property in question was originally owned by one Pokh Raj, who had bequeathed the same to Smt. Chander Kanta. Subsequently, Chander Kanta legally transferred the said property to the petitioner through a valid Transfer Deed, thereby vesting ownership rights in their favour.

Learned counsel has further submitted that there is no document on record to establish that the petitioner was not the rightful owners of the said property. At best, the matter is civil in nature, and if any grievance exists, it may amount to civil contempt but does not attract any criminal liability.

Notice of motion.

On behalf of the State

On the asking of Court, Mr. Chetan Sharma, DAG Haryana, accepts notice on behalf of respondent-State. He opposes the present petition and prays for its dismissal on the ground that, despite the stay order passed by this Court, the petitioner-accused deliberately and willfully proceeded to alienate the property in question, thereby exhibiting a blatant disregard for the authority and process of law.

Learned State Counsel further submits that the entire transaction is tainted with a clear element of dishonest intent. It is pointed out that the Property ID was generated at 09:46 p.m. well beyond the official working hours in connivance with officials of the Municipal Corporation, Yamuna Nagar, thereby indicating possible manipulation of official records to facilitate the illegal sale.

It is further alleged that although the property is commercial in nature, it was falsely represented as residential in the registered sale deed, thereby misleading both the authorities and the prospective purchasers.

It is also submitted that certain crucial documents alleged to have been used in the commission of the offence, as well as the sale consideration, are yet to be recovered from the petitioner.

In view of the above, learned State Counsel contends that the custodial interrogation of the petitioner is not only warranted but also essential for the fair and effective investigation of the case.

4. Analysis

In the present matter, it is clearly established that the petitioner-accused has wilfully violated the stay order issued by this Court by alienating the property in question, thereby demonstrating a blatant disregard for the authority of this Court and the established legal process. The transaction is marred by dishonest intent, as evidenced by the creation of the Property ID at an unusual hour, well beyond official working hours, in alleged collusion with officials of the Municipal Corporation, Yamuna Nagar, suggesting possible manipulation of official records to facilitate the unlawful sale.

Moreover, the commercial nature of the property was deliberately misrepresented as residential in the registered sale deed, thereby prejudicing the authorities and misleading the prospective purchasers. Important documents and the sale consideration connected to the alleged offence remain unrecovered, indicating that the investigation is still at a preliminary stage and far from complete.

Also this Court would opine that in everyday terms, the principle of law dictates that bail is the general rule, while jail is the exception. However, this Court acknowledges that the power to grant or deny bail is extraordinary and must be exercised with caution. It is well-established that when considering a bail application (whether pre-arrest or regular bail), the Court must form a *prima facie* opinion as to whether reasonable grounds exist to support the accusation, or if the accusation is

frivolous and baseless possibly made with the intention of harming or humiliating the individual, or falsely implicating them in the crime. This evaluation must be conducted in light of the self-imposed restrictions and the broader legal parameters outlined.

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 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.”

More so, investigation is still going on in the present case. It is settled proposition of law that power exercisable under Section 482 BNSS, is somewhat extraordinary in character and it is to be exercised in exceptional cases. The Supreme Court in **“State vs. Anil Sharma”; (1997) 7 SCC 187**, held as under:-

“We find force in the submission of the CBI that custodial interrogation is qualitatively more elicitation oriented than questioning a suspect who is well ensconded with a favourable 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 material 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 needs 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.”

5. Decision

In the light of above discussions made hereinabove, this Court is of the view that his custodial interrogation of the petitioner is required for the purpose of recovery of documents and to further unearth the ramifications involved in the present case.

Hence, the present petition is hereby dismissed.

However, it is made clear that the observations in this order are only for the purposes of deciding this bail application and the trial Court is free to adjudicate upon the matter in accordance with law.

18.07.2025
Meenu

(SANDEEP MOUDGIL)
JUDGE

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