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

CRM-M No.38388 of 2025

Date of Decision: 21.07.2025

Ashok Kumar

..... Petitioner

Versus

State of Punjab

..... Respondent

CORAM : HON'BLE MR. JUSTICE RAJESH BHARDWAJ

Present: Mr. Eklavya Gupta, 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.0189, dated 12.06.2025 (Annexure P-1), under Sections 316(2), 318(4) of BNS, 2023 and Section 13 of Punjab Travel Professionals (Regulation) Act, 2014, registered at Police Station City Hoshiarpur, Punjab. Further prayer has been made for staying the arrest of the petitioner during the pendency of the present petition.

2. Brief facts of the case are that the complainant in this case had earlier approached this Court praying for issuance of direction by way of filing **CRM-M No.23814 of 2025**, which was disposed of by this



Court vide order dated 14.05.2025 with the direction to the respondent authorities to decide the complaint/representation in accordance with law and on the basis of the same, the FIR was lodged. It was alleged by the complainant that he was duped by the accused for an amount of Rs.7 Lakhs on the promise of sending him to Poland. However after taking money from the complainant, neither a valid visa was provided to him nor he was sent to Poland. Thus the request was made to take legal action against the accused. Apprehending arrest, the petitioner approached the Court of learned Additional Sessions Judge, Hoshiarpur praying for the grant of anticipatory bail. However after hearing both the sides, finding no merit in the same, the learned Additional Sessions Judge, Hoshiarpur declined the petition filed by the petitioner vide order dated 09.07.2025. Hence being aggrieved, the petitioner is before this Court praying for the grant of anticipatory bail.

3. It has been contended by learned counsel for the petitioner that the petitioner has been falsely and frivolously implicated in the present case. He has submitted that the petitioner is a victim of the circumstances and he has made a scape-goat by the complainant. He has submitted that before registration of the FIR, two separate inquiries dated 22.01.2025 and 13.03.2025 were carried out by the Investigating Agencies and he was exonerated in the same but despite that the petitioner was implicated by the complainant in the present FIR. He has submitted that the petitioner's son and daughter-in-law had a matrimonial litigation and the daughter-in-law, in conspiracy with the complainant, had implicated the petitioner in the present FIR. He has submitted that



there being no prima facie case having been made out against the petitioner, he deserves to be granted anticipatory bail.

4. Notice of motion.

5. On asking of the Court, Mr. J. S. Arora, DAG, Punjab, appears and accepts notice on behalf of the respondent-State.

6. At this stage, Mr. Kamaljeet S. Mamrat, Advocate has appeared and filed his power of attorney on behalf of the complainant today in the Court and the same is taken on record. He has vehemently opposed the submissions made by learned counsel for the petitioner.

7. *Per contra*, learned counsel for the State has opposed the submissions made by learned counsel for the petitioner. He has submitted that the petitioner is a habitual offender, who had duped the petitioner with a heavy amount. He has submitted that the investigation is at the initial stage. He has thus submitted that no case for the grant of anticipatory bail to the petitioner is made out and hence the present petition deserves to be dismissed.

8. The Court has heard learned counsel for the parties and perused the record with their able assistance.

9. It is deciphered that the petitioner along with co-accused was alleged to have taken Rs.7 Lakhs from the complainant on the pretext of sending him abroad. The petitioner thereafter was provided with a visa, which was found to be a fake one. Thereafter neither he was provided a valid visa nor the money paid by him was returned to the complainant. It has been revealed from the record that the petitioner is involved in 06 other FIRs. The investigation is at threshold.



10. 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.”*

11. 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.”

12. 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.”*

13. 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. Needless to say, the investigation is at threshold 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.

14. 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.

21.07.2025

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

(RAJESH BHARDWAJ)
JUDGE