

(211)

2025:PHHC:112368



IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M-39448-2025

Date of decision :25.08.2025

ASLAM KHAN

... Petitioner

Versus

STATE OF PUNJAB

...Respondent

CORAM: HON'BLE MR. JUSTICE JASJIT SINGH BEDI

Present: Mr. Sumeet Puri, Advocate
for the petitioner (through V.C.).

Mr. Harkanwar Jeet Singh, Asstt. A.G., Punjab.

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.163 dated 17.06.2025 registered under Sections 318(4), 61(2) of BNS, 2023 at Police Station Amargarh District Malerkotla.

2. The present FIR came to be registered at the instance of Sabiran D/o Mohammad Yousaf and the same reads as under:-

“To the, Hon'ble S.S.P.Sahib District Sangrur. Application submitted by Sabiran daughter of Mohammad Yousaf resident of Dalelgarh Police Station Amargarh Tehsil District Malerkotla Mobile: 88470-04528, against: Aslam Khan son of Habib Khan resident of Binjoki Kalan Tehsil and District Malerkotla, Mohammad Asraf son of not known Mob. 97814-90501 resident of Mochyian Wala Kailon Gate Malerkotla regarding fraud and duping in the name of sending abroad. Subject: Regarding committing of fraud and duping in the name of sending abroad and after effecting of compromise in

order to escape from police action and causing harassment. Sir, applicant submits the below mentioned application. 1) That applicant's father Mohammad Yousaf) was well acquainted with above Aslam since long and used to visit our house. Aslam khan told us that his daughter is going to Luxembourg country of Europe and if you are to send your daughter (Sabrian) or any other relative, then send them, it will cost to about Rs.9,50,000/- and Embassy Fee and medical expenses are first and the remaining amount is to be paid after issuance of visa and asked to consult. 2) That my father agreed to send me abroad and above Aslam came to our house and had taken my original documents and he made demand of Rs.one Lakh as file expenses. On dated 03rd August 2024 I through my google pay (88470-04528) had transferred Rs.50,000/- through google pay (9316926000) and on 4th August Rs.50,000/- total Rs.1,00,000/- to Aslam and talked to my Massi's (Aunt) (Nawab Ali) in connection with going abroad and he asked us to take his documents and made meeting of Nawab Ali with Aslam Khan and Aslam Khan took original documents (passport, 10th, 12th, Aadhar and Pan Card, voter card) from Nawab Ali and gave assurance to us that visa of both will be sanctioned very soon and took Rs.4000/- for getting prepared certificate of three course of salon and sent the offer letters to us and after about 20 days Aslam by sending a slip through whatsapp sent to Ludhiana for getting medical done where expenditure of Rs.3500/- of mine was incurred and after 2-3 days also sent Nawab Ali to Ludhiana for getting the medical done, where expenditure of Rs.3500/- of his was also incurred and after 3 months Aslam Khan said that medical of both of you has been rejected, on account of this you will have to go to Delhi and Aslam Khan said that main agent (Mohammad Asraf) will got the medical done after going to Delhi and will get completed the documents regarding visa in the Embassy, it will cost Rs.25,000/-. 3) That Mohammad Asraf took Rs.25,000/- from Nawab Ali and took them with him from Malerkotla to Delhi by train, where Mohammad Asraf got conducted the medical

of Nawab Ali and Mohammad Asraf asked me that you should make arrangement of Rs.3,50,000/- for Embassy Fee and other expenses, your medical will be done after 10 days and passport will be deposited along with the same and visa will be issued and within one and half month you will reach Luxembourg and we asked him that as you had stated the amount is to be paid after sanction of the visa and we will pay the amount after sanction of the visa and we can only pay Rs. 1,50,000/- to you, then Mohammad Asraf said that it is okay, you can give only Rs.1,50,000/- and we gave Rs.1,50,000/- to Mohammad Asraf and Mohammad Asraf took us from Dhuri to Delhi by train and took me there and got my medical done and told us that you should visit the Jumma Masjid and he would come after depositing the embassy fee and giving the passport for visa and after 3-4 hours Mohammad Asraf met us near the Jumma Masjid and said that just go now and arrange the remaining amount, the visa will come within 20-25 days and now he would not lend and we assured Mohammad Asraf that entire amount would be given after the visa arrives and we returned. 4) That after expiry of about one and a half months, when we talked to above Mohammad Asraf and Aslam Khan, they assured us that the visa stamp has been done on your passports and their person in the Embassy is on leave and kept on sending us emails to make us believe that your visa has been issued. In this way, above (Aslam Khan and Mohammad Asraf) wasted a lot of time and when we asked them for our original documents and money, they started delaying us. They kept doing this for 10 days and 20 days, and 10 months passed. 5) We came to know that the offer letters sent by them were also fake. Above (Aslam Khan and Mohammad Asraf) had taken our original documents and cheated us of Rs. 2,79,000/- in the name of sending us abroad and we spent another Rs.30,000/- during this time and we were harassed. 6) In this regard, an application on 18/2/2025 was submitted to you, regarding which a compromise was arrived at the EO Wing Office of Police Station City 1 Malerkotla and in the

compromise, the above said had promised to return the documents and the amount of Rs.1,50,000/-, but instead of returning the documents and the amount, above have started harassing us even more. From which it is clear that above had compromised with us in order to avoid police action. Therefore, by submitting this application, it is requested that immediately appropriate action be taken against above Aslam Khan and Mohammad Asraf for defrauding us in the name of sending us abroad and not returning the original documents and duping us of Rs.2,79,000/- and preparing a fake offer letter and violating it by compromising. Shall be grateful. Dated 18.2.2025. Applicants Sd/- Sabiran daughter of Mohammad Yousaf.”

3. The learned counsel for the petitioner contends that the petitioner has been falsely implicated in the present case. He has no direct or indirect role to play in the commission of the alleged offence. As he is ready and willing to join investigation, he is entitled to the concession of bail.

4. On the other hand, the learned State counsel contends that the petitioner and his co-accused took a huge amount of money to send the complainant abroad. Neither did the accused provide any Visa nor did they return the money given to them for the said purpose. Therefore, the complainant has been cheated of an amount of Rs.2,79,000/-. The nature of the allegations do not entitle him to the concession of anticipatory bail as the offence is *prima facie* made out.

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 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. A perusal of the FIR would *prima facie* establish that the petitioner and his co-accused took a huge amount of money to send the complainant abroad. Neither was she sent abroad nor was the money returned to her. Apparently, the offence is *prima facie* is made out. In order to take the investigation to its logical conclusion, the custodial interrogation of the petitioner is certainly necessary.

8. Keeping in view the aforementioned discussion, the petitioner is not entitled to the grant of pre-arrest bail and therefore, the present petition stands dismissed.

(JASJIT SINGH BEDI)
JUDGE

25.08.2025
JITESH

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