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(210)

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

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Date of decision :28.08.2025

SHAISTA

... Petitioner

Versus

STATE OF HARYANA

...Respondent

CORAM: HON'BLE MR. JUSTICE JASJIT SINGH BEDI

Present: Mr. Ravi Malik, Advocate
for the petitioner.

Mr. T.P. Singh, Sr. DAG, Haryana.

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 05.06.2024 registered under Sections 406, 409, 420, 467, 468, 471, 120-B IPC at Police Station Nagina, District Nuh, Haryana.

2. The present FIR came to be registered on the basis of a complaint filed by CM Flying Squad Rewari and the same reads as under:-

"To SHO, Police Station Nagina, District Nuh. It is requested that an information was received that in the development work done under MNREGA scheme in village Umra of Block Nagina of District Nuh, government money has been embezzled by making fake job cards of dead persons, government employees, minor children and handicapped persons and showing their false attendance. The initial investigation of which was done by the Chief Minister Flying Squad Rewari. During the



investigation, records were obtained from the Block Development and Panchayat Officer Nagina District Nuh regarding the allegations made in the complaint and the statements of the concerned persons were recorded and the death certificates of the deceased persons and the record of the date of birth of minor children were obtained from the school. As per the received records and statements, it was found that the deceased Sahida wife Sakil resident Umra whose job card number was 19-007-037- 003/7010104 had died on 20.12.2020. After whose death, wages amount of Rs. 4944/- was found to be deposited in the account by showing fake attendance and Rukhsana wife of Azad resident of Umra had died on 28.11.2019. According to which, as per job card no. HR-19-007-037-003/700859, by showing fake attendance, an amount of Rs. 54,772/- was found to be deposited and Miskeena wife of Risal resident of Umra had died on 12.05.2019, according to which, as per job card no. HR-19-007-037- 003/800439, by showing fake attendance after her death, an amount of Rs. 28,518/- was deposited in the account and Saira wife of Gafru resident of Hasanpur had died on 08.09.2020. Whose job card no. According to HR-19-007-020-001/1141, after death, by making fake attendance, a total wage amount of Rs. 24,497/- has been found to have been deposited in the account and Younish son of Suleman resident of Umra had died on 26.05.2020, whose job card no. As per HR-19-007-037-003/800377 a total wage amount of Rs. 32,535/- has been deposited in the account by marking fake attendance after death and as per job card no. HR-19-007-053-001/7037 a wage amount of Rs.4725/- has been deposited in the account of Talima son of Haroon, a minor resident of Jagrali under the age of 18 years by showing attendance and as per job card no. HR- 19-007-053-001/7047 a wage amount of Rs.4725/- has been deposited in the account of Naseer son of Hanif, resident



of Kultajpur. Similarly, Yasmeen, wife of Naseem Ahmad, resident of Kultajpur, has been shown as present as per job card no. HR 19-007-053- 001/7025 and wages of Rs. 4725/- have been credited to her account. Similarly, Gulshad Ahmad, son of Haroon, resident of Kultajpur, has been shown as present as per job card no. HR-19-007-053-001/7044 and wages of Rs. 4725/- have been credited to his account. The above minors have been found to have embezzled government money of Rs. 18,900/- by showing fake job cards and fake attendance. Similarly, government employee Salim son of Mohammad Yunus resident of Umra was found to have embezzled government money by fraudulently entering Rs.70,191/- in his job card no. HR-19-007-037-003-700805 and Naseem wife of Khalid Hussain resident of Umra was found to have embezzled government money of Rs. 34,299/- by fraudulently entering the wage amount in her job card no. HR 19-007-037-003/800219. Similarly, job card no. HR 19-007-037-003/701065 is made in the name of Sitara wife of Fazru resident of Umra district Nuh. Government money has been embezzled by depositing Rs. 27,212/- in her account. Similarly, more than one job card has been made in the name of the same person, out of which three job cards have been made fraudulently in the name of Dinu son of Katula resident of Umra. By showing fake attendance on job card no. HR-19-007-037-003-700950, job card no. HR-19-007-037-003-800148, job card no. 19-007-037-003/800306, a total of Rs. 1,14,226/- has been embezzled. Similarly, 04 job cards have been made fraudulently in the name of Rajendra son of Chand resident of Umra and 02 job cards have been made fraudulently in the name of Phoolan wife of Rajendra resident of Umra. Whose job card number is HR-19-007-037- 003-800532, job card number is HR-19-007-037-003-800525, job card number is 19-007-037-003/800448. By showing fake attendance in job card



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no. HR-19-007-037- 003/800455, it was found that government money of Rs. 95,043/- was embezzled and by showing fake attendance in job card no. HR-19-007-037-003-800526 and job card no. HR-19-007-037-003-800533 of Phoolan wife of Rajendra, a total of Rs. 47,586/- was embezzled. Similarly, after examining the records related to the job cards of handicapped persons, it was found that 2 job cards of handicapped Nayab son of Sumeri resident of Umra, no. H-19-007-0037-003/800169 and job card no. HR-19-007- 0037-003/700790 has been made, the Naib above has made 2 fake job cards and embezzled government money worth Rs. 1.01.021. Similarly, 2 job cards no. HR-19- 007-0037-003/700946 and job card no. HR-19-007-0037-003/800303 have been made, the Naib above has made 2 fake job cards and has embezzled government money by depositing wages amount of Rs. 84.909 in the aforesaid accounts. During the investigation, it was found that in the development works done in the village Umra under the MNREGA scheme from the year 2019-2021, by making more than one job card of dead persons, government employees, minor children, handicapped persons and the same person, by putting their fake attendance, the then Sarpanch Sahista Yasir Mat Gram Panchayat Umra Aslam Accounting Assistant, Arshad Accounting Assistant Arshad ABPO, Sajid ABPO Office Block Development and Panchayat Officer Nagina District Nuh, by conspiring with each other, by preparing fake records by fraud, government funds worth Rs.7.38.653/- have been embezzled, which should be taken by registering a case against the above under Sections 406 409 420 467 468 471 120B IPC and legal action should be taken and during the investigation, if the involvement of any person, officer, employee other than the above persons is found, then it is recommended to take legal action against them as per the



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rules. (Inspector Satendra Kumar) Chief Minister's Flying Squad (H) Rewari. PH. 8684951930.”

3. The learned counsel for the petitioner contends that the petitioner has been falsely implicated in the present case. She was not a beneficiary to any of the accounts mentioned in the FIR in which the amount was deposited. The liability, if any, is of the BDPO and ABPO as the job cards are prepared by them. As the petitioner is ready and willing to join investigation, she is entitled to the concession of anticipatory bail.

4. A reply dated 25.08.2025 by way of an affidavit of Ajaib Singh, HPS, Deputy Superintendent of Police, Firozpur Jhirka 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 during the course of inquiry, it was revealed that during the petitioner's tenure as a Sarpanch fake job cards of dead persons, minors, government employees and others were prepared and false attendance was marked and payments were fraudulently credited. It was found that there was active collusion of the petitioner along with the BDPO/ABPO officials and other accused persons in preparation of forged records leading to wrongful loss of the Govt. and wrongful gain to private persons. The petitioner being Sarpanch of the Gram Panchayat, Umra had a statutory role in the verification and authentication of MNREGA works and muster rolls. The forged job cards and muster entries bear her



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authentication. Her involvement is not merely supervisory but operational and deliberate. As the offence stands *prima facie* established, she 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 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 material on record would reveal that during the petitioner's tenure as Sarpanch, fake documents were prepared in the name of minors, dead persons, Govt. employees etc. Their false attendance was marked and payments were fraudulently credited into

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accounts of such persons. The offence has been committed with the active collusion of the petitioner and BDPO/ABPO officials who have prepared forged records leading to a huge loss to the Govt. exchequer. It was the petitioner who was to verify and authenticate MNREGA works and muster rolls. The forged documents bear her authentication. Therefore, *prima facie* the offence against the petitioner stands established. Even otherwise, the custodial interrogation of the petitioner is required to unearth the full conspiracy, identify beneficiaries and recover original records.

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

28.08.2025
JITESH