

2025.PHHC.112431



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

105

**CRM-M-44719-2025
Decided on:19.08.2025**

Shiv Kumar Gupta

...Petitioner

Versus

State of Haryana

...Respondent

Coram : Hon'ble Mr. Justice Rajesh Bhardwaj

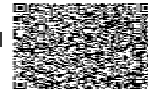
Present: Mr. D.V. Dhindsa, Advocate,
for the petitioner.

Rajesh Bhardwaj, J.

1. Prayer in the present petition, filed under Section 482 of the BNSS, 2023 is for grant of anticipatory bail to the petitioner in a case FIR No.904 dated 28.05.2025, registered under Sections 21(1) of the Mines and Minerals (Development and Regulation) Act, 1957 & Section 303(2) of the BNS, 2023, at Police Station HSENB, Ambala.

2. Succinctly, the facts of the case are that the present FIR was registered on the complaint of Mining Officer, Department of Mines and Geology, Ambala, wherein it was alleged that members of the Enforcement Team, namely, Faqir Chand and Rinku caught a Tipper bearing registration No.HR58B-2898 in relation to illegal mining and transportation of gravel. Thus, it was prayed for taking necessary action against the culprits and registration of FIR. On registration of the FIR, the investigation commenced and complicity of the petitioner was surfaced and, thus, he was arrayed as an accused. Apprehending arrest, the petitioner approached the Court of learned Additional Sessions Judge, Ambala, for grant of concession of anticipatory

2025.PHHC.112431



bail, however, after hearing both the sides, the said relief was declined to him vide order dated 29.07.2025. Hence, aggrieved against the said order, the petitioner is before this Court by way of filing the present petition.

3. Learned counsel for the petitioner has vehemently contended that the petitioner has been falsely and frivolously implicated in the present case. It is submitted that even otherwise, there is an unexplained delay of more than three months in registration of the FIR, which caused a serious shadow on the authenticity of the FIR. It is submitted that neither the petitioner was present at the time and place of occurrence nor he was issued any prior notice regarding the alleged violation. He further submitted that there being no *prima facie* case against the petitioner, he deserves to be granted concession of anticipatory bail.

4. Notice of motion.

5. On asking of the Court, Mr. Sumit Jain, Addl. A.G., Haryana, accepts notice on behalf of the respondent-State and opposed the bail application on various grounds.

6. After hearing learned counsel for the parties and perusing the available record, it is deciphered that during investigation, it has been found that the petitioner is the owner of the vehicle which was found involved in illegal mining. The petitioner has also failed to deposit the penalty/royalty, i.e. 50% of ex-showroom value of the vehicle in question, imposed upon as per the directions of the NGT, Delhi. Thus, the contentions raised by the learned counsel for the petitioner cannot be appreciated at this stage where he has approached this Court for the grant of concession of anticipatory bail. However, the same could be appreciated at the relevant stage.

7. For the consideration of anticipatory bail, the statutory parameters are given under Section 482 (1) & (2) of BNSS which reads as under:-

“482. 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*

2025.PHHC.112431



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."*

8. Hon'ble Supreme Court in State represented by **CBI Vs. Anil Sharma**, (1997) 7 SCC 187 has 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 ensconded with a favorable order under Section 438 if the code. In a case like this effective interrogation of suspected person is of tremendous advantage in disinterring many useful informations and also materials which would have been concealed. Succession such interrogation would elude if the suspected person knows that he is well protected and insulated by a pre-arrest bail during the time he 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

2025.PHHC.112431



presume that responsible Police Officers would conduct themselves in task of disinterring offences would not conduct themselves as offenders.”

9. Hon’ble Apex Court in plethora of judicial precedents including **Gurbaksh Singh Sibbia Vs. State of Punjab, AIR 1980 SC 1632**, has time and again reiterated that while considering the anticipatory bail the Court is to take into consideration the factors like gravity of offence, chances of accused tampering with the evidence and probabilities of his fleeing from justice etc. The Court should be circumspect about the impact of its decision on the society as well. The anticipatory bail is an extraordinary discretion which should be exercised in the extraordinary circumstances.

10. 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* established. The investigation is at its threshold. Thus, granting anticipatory bail to the petitioner at this stage would scuttle the ongoing investigation.

11. In view of the facts and circumstances of the present case, this Court is of the opinion that the petitioner does not qualify for exercising the extraordinary power by this Court in their favour. Resultantly, the present petition, being devoid of any merit, is hereby dismissed.

12. Nothing said herein shall be construed as an expression of opinion on the merits of the case.

August 19, 2025
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(Rajesh Bhardwaj)
Judge

Whether Speaking/Reasoned: NO/YES
Whether Reportable: NO/YES