



CRM-M-44669-2025

222 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-44669-2025
Date of Decision: 01.09.2025

Vikrant Tomar ...Petitioner

Versus

State of Punjab ...Respondent

CORAM: HON'BLE MR. JUSTICE ANOOP CHITKARA

Present: Mr. Vaibhav Narang, Advocate
for the petitioner.

Ms. Pooja Nayar Sharma, D.A.G., Punjab.

ANOOP CHITKARA, J.

FIR No.	Dated	Police Station	Sections
305	21.12.2022	A Division, District Amritsar	22(C), 27-A, 29 of NDPS Act and 420, 468, 471, 120-B, 34 IPC

1. The petitioner, who is a proclaimed offender per paragraph 32 of status report, apprehending arrest in the FIR captioned above, has come up before this Court under Section 482 of Bharatiya Nagarik Suraksha Sanhita, 2023, [BNSS], seeking anticipatory bail.

2. Per paragraph 33 of the status report, the petitioner has the following criminal antecedents:

Sr. No.	FIR No.	Date	Offenses	Police Station
1.	108	16.07.2025	22, 27A, 29, 31 of NDPS Act and 318(4), 238, 61(2) BNS	A Division, Amritsar

3. The facts and allegations are taken from the status report filed by the State. On 21.12.2022, based on secret information, the Police seized 29,920 tablets (Tramadol Hydrochloride) from the possession of co-accused Nishan Sharma. During further investigation, police seized 3,20,000 tablets, 4,05,000 capsules from Usman Rajput, 3,56,800 tablets from Rajan Kumar and Rishi Kumar and 45,925 injections, 14,925 capsules and 19,700 tablets from Manoj Kumar Sahoo (all tramadol Hydrochloride). The Investigator claims to have complied with all the statutory requirements of the NDPS Act, 1985, and CrPC, 1973.



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4. Para 3 of the status report dated 31-08-2025, reads as follows:

“3. That bereft of the unnecessary details, it is submitted that on 21.12.2022, the accused person namely Nishan Sharma Sio Baldev Raj Sharma was apprehended on the basis of the secret information from bus stand, Amritsar by the police party headed by Inspector Rajwinder Kaur, SHO of Police Station A-Division, Amritsar City. He was informed about his legal right as prescribed under Section 50 of NDPS. Acl to be searched before a Magistrate or some Gazetted Officer and as per his consent, his searched was conducted in presence of Sh. Gurpartap Singh Sahota PPS, then Assistant Commissioner of Police, East. Amritsar and Drug Inspector Rohit Kumar During which, total 29,920 intoxicating tablets of Tramadol Hydrochloride 100 mg, Cosidol-100SR Tablets Bluepen Laboratories Pvt. Ltd (ISO 9001:2015 certified company) rock valley apartments, sewikalan, Majra, Dehradun, UK 248001. Mfg. by rapport remedies E-7/2, UPSIDC, Industrial Area, Selaqui, Dehradun, UK B.No RRNT-11/049. B. No. RRNT 11/038, B. No. T12217 were recovered from one card board box lying in jute bag holding in his hand, which were taken into police possession in accordance with law. The above said accused Nishan Sharma was arrested in this case/FIR No. 305/2022 (supra).”

5. The petitioner's counsel prays for bail by imposing any stringent conditions and contends that pre-trial incarceration would cause an irreversible injustice to the petitioner and their family.

6. The State's counsel opposes bail and refers to the status report.

7. It would be appropriate to refer to the following portions of the status report dated 31-08-2025, which read as follows:

“19. That the deponent humbly submits that during custodial interrogation, the accused Manoj Kumar Sahoo suffered disclosure statement before the Investigating Officer that he used to purchase intoxicating tablets and capsules from Usman owner of M/s Rapport Remedies despite having knowledge that the manufacturing license of M/s Rapport Remedies of the accused Usman had already been cancelled. He further used to sell these intoxicating tablets/capsules in Punjab and other prohibited States through fake firms A-Pharma, Ms/ T-Sailo Pharmacy, M/s Ashish Medial Agency, M/s Dehradun Medicine and M/s Rare care Pharmaceuticals. It was also disclosed by Manoj Kumar Sahoo that Vikrant Tomar owner of M/s Rare Care Pharmaceuticals had told him that he was not having any license. Hence, he (Manoj Kumar Sahoo) had conspired with the present petitioner Vikrant Tomar to prepare a fake license and he would sell him intoxicating drugs. Manoj Kumar Sahoo was produced before the jurisdictional learned Court and his police remand was granted by the



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learned Magistrate. Thereafter on the basis of identification made by Manoj Kumar Sahoo, recovery of 19700 intoxicating tablets, 14832 intoxicating capsules and 45925 intoxicating injections was made on 19/2/2023 from his firm M/s Bluepen Laboratories in presence of Drugs Inspector of Dehradun and DLA Garhwal Mandal sale, Uttarakhand. The disclosure memo of Manoj Kumar Sahoo is annexed herewith as Annexure R-1/T for kind perusal of this Hon'ble Court.

20. That the deponent humbly submits during investigation it revealed that no firm by the name of Rare Care Pharmaceutical, shop No. 1, first floor sector 5, PNB road, Krishna Plaza, Jagrati, Bihar exists at the given address and as per the written report obtained from Local Drugs Inspector, it revealed that no company by the name of Rare Care Pharmaceutical, shop No. 1F-1/C New Krishana Plaza PNB road, Meerut UP Drug Lic No. 20BL No UP1520000323921 B UP 15210003239 has been registered. Whereas, the accused Manoj Kumar Sahoo used to sell intoxicating tablets/capsules to this firm by issuing invoices in favour of this fake firm and other fake firms also. Therefore, the present petitioner Vikram Tomar owner of the above said firm Rare Care Pharmaceutical was also nominated as accused on 20.2.2023. The report of Drugs Inspector, Meerut, UP is annexed herewith as Annexure R-2 for kind perusal of this Hon'ble Court.

The name and total weight of the drug

28. That the deponent humbly submits that the details of the total intoxicant tablets, intoxicant capsules and intoxicant injections recovered in this case from different accused persons and name of the drug found present therein, as per reports of RTFSL, Amritsar are as under and reports are annexed as Annexure R-1 to R-4 for kind perusal of this Hon'ble Court:

Sr. No.	Name of accused, from whom recovery was effected	Total drugs	Name of the drug as per report of FSL
1.	Nishan Sharma	29,920/- tablets	Tramadol Hydrochloride
2.	Usman Rajput	3,20,000/- tablets 4,05,000/- capsules	Tramadol Hydrochloride
3.	Rajan Kumar Rishi Kumar	3,56,800/- tablets	Tramadol Hydrochloride
4.	Manoj Kumar Sahoo	45, 925/- injections 14,925/- injections 19,700/- tablets	Tramadol Hydrochloride Tramadol Hydrochloride



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			Tramadol Hydrochloride
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The evidence based on which the petitioner was arraigned as an accused

29. That the deponent humbly submits that during the course of investigation the name of the present petitioner Vikrant Tomar had been figured during disclosure statement suffered by the above said accused Manoj Kumar Sahoo on 18.02.2023 used to sell these intoxicating tablets/capsules in Punjab and other prohibited States through fake firms A-Pharma, Ms/ T-Sailo Pharmacy, M/s Ashish Medial Agency, M/s Dehradun Medicine and M/s Rare care Pharmaceuticals. It was also disclosed by Manoj Kumar Sahoo that Vikrant Tomar owner of M/s Rare Care Pharmaceuticals had told him that he was not having any license. Hence, he (Manoj Kumar Sahoo) had conspired with the present petitioner Vikrant Tomar to prepare a fake license and he would sell him intoxicating drugs. During investigation it revealed that no firm by the name of Rare Care Pharmaceutical, shop No. 1, first floor, sector 5, PNB road, Krishna Plaza, Jagrati, Bihar exists at the given address and as per the written report obtained from Local Drugs Inspector, it revealed that no company by the name of Rare Care Pharmaceutical, shop No. 1F-1/C New Krishana Plaza PNB road Meerut UP Drug Lic. No. 20BL No UP1520000323921 B UP 15210003239 has been registered. Whereas, the accused Manoj Kumar Sahoo used to sell intoxicating tablets/capsules to this firm by issuing invoices in favour of this fake firm and other fake firms also. Therefore the present petitioner Vikrant Tomar owner of the above said firm Rare Care Pharmaceutical was also nominated as accused on 20.2.2023.

The evidence against the petitioner

30. That the deponent humbly submits that the prosecution evidence against the present petitioner-accused Vikrant Tomar is primarily based on the disclosure statement suffered by the co-accused Manoj Kumar Sahod and thereafter during investigation, it was revealed that the present petitioner Vikrant Tomar had created a fake firm namely M/s Rare Care Pharmaceuticals and was indulging in purchasing Intoxicating tablets from co-accused Manoj Kumar Sahoo, which were being sold by him further in Punjab. Moreover, the present petitioner Vikrant Tomar is also involved in aforesaid another FIR No. 108, dated 16.07.2025, under Section 22, 27A 29, 31 NDPS Act, 223, 318 (4), 238, 61 (2) BNS, PS A Division, Amritsar wherein he has also created another fake firm for indulging in sale of intoxicant tablets.

The role of the petitioner

31. That the deponent humbly submits that the present petitioner Vikrant Tomar along with aforementioned other co-accused person Manoj Kumar Sahoo involved in sale and purchase of intoxicant



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tablets, which the present petitioner Vikrant Tomar used to purchase in the name of fake firm Rare Care Pharma from co-accused Manoj Kumar Sahoo and was further selling in Punjab.”

8. The quantity allegedly involved in this case is commercial. Given this, the rigors of S. 37 of the NDPS Act and the petitioner must satisfy the twin conditions put in place by the Legislature under Section 37 of the NDPS Act.

9. Given the above, the petitioner has, prima facie, failed to satisfy the conditions of section 37 of the NDPS Act to make a case for bail.

10. The petitioner was declared a proclaimed offender, which delayed the investigation and the trial. There is absolutely no assurance that if released on bail, the petitioner will attend the trial. The allegations are serious, and the offense is heinous. If the petitioner becomes a fugitive again, it will dampen the witnesses and the victim's family.

11. In Lavesh v. State (NCT of Delhi), (2012) 8 SCC 730, (Para 10), Hon'ble Supreme Court holds,

[10]. ... Normally, when the accused is "absconding" and declared as a "proclaimed offender", there is no question of granting anticipatory bail. We reiterate that when a person against whom a warrant had been issued and is absconding or concealing himself in order to avoid execution of warrant and declared as a proclaimed offender in terms of Section 82 of the Code is not entitled the relief of anticipatory bail.

12. The crux of Lavesh is in the expression 'normally' and when the accused absconds or conceals to avoid execution of warrant.

13. In State of Madhya Pradesh v. Pradeep Sharma, (2014) 2 SCC 171, Para 10, Supreme Court placing reliance upon Lavesh v. State, held that it is clear from the above decision that if anyone is declared as an absconder/proclaimed offender in terms of Section 82 of the Code, he is not entitled to the relief of anticipatory bail.

14. In Pradeep, Hon'ble Supreme Court followed Lavesh and did not lay down any distinct ratio.

15. In Vipan Kumar Dhir v. State of Punjab and another, Cr. A nos. 1161&1162 of 2021, decided on 04.10.2021, a three-judge bench of Hon'ble Supreme Court holds,

[12]. In the case in hand, the High Court seems to have been primarily swayed by the fact that the Respondent Accused was 'co operating' with investigation. This is, however, contrary to the



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record as the Respondent Accused remained absconding for more than two years after being declared a proclaimed offender on 23.04.2018. She chose to join investigation only after securing interim bail from the High Court. She kept on hiding from the Investigating Agency as well as Magistrate's Court till she got protection against arrest from the High Court in the 2nd round of bail proceedings.

[13]. Even if there was any procedural irregularity in declaring the Respondent Accused as an absconder, that by itself was not a justifiable ground to grant prearrest bail in a case of grave offence save where the High Court on perusal of case diary and other material on record is, prima facie, satisfied that it is a case of false or overexaggerated Such being not the case here, the High Court went on a wrong premise in granting anticipatory bail to the Respondent Accused.

[14]. The ground of parity with co-accused Daksh Adya invoked by the High Court is equally unwarranted. The allegations in the FIR against the Respondent Mother-in-Law and her younger son Daksh Adya are materially different. It is indubitable that some of the allegations against all the family members are common but there are other specific allegations accusing the Respondent Accused of playing a key role in the alleged offence. The conduct of the Respondent Accused in absconding for more than two years without any justifiable reason should have weighed in mind while granting her any discretionary These facts put her on a starkly different pedestal than the co-accused with whom she seeks parity. We are, thus, of the considered view that the High Court has wrongly accorded the benefit of parity in favour of the Respondent-Accused. It has to be borne in mind that the deceased met with a tragic end within three months of her While it is too early to term it an offence under Sections 302 or 304B I.P.C., but the fact remains that a young life came to an abrupt end before realizing any of her dreams which were grimly she died an unnatural death in her matrimonial home. The Respondent-Accused is the mother-in-law the deceased. The Investigating Agency, therefore, deserves a free hand to investigate the role of the Respondent Accused, if any, in the unnatural and untimely death of her daughter in law.

16. The gravity of offence in Vipan Kumar Dhir was extremely heinous. Hon'ble Supreme Court had considered cumulative factors while rejecting bail.

17. In Prem Shankar Prasad v. The State of Bihar, Cr. A no.1209 of 2021, decided on 21 October 2021, Hon'ble Supreme court observed in the following terms,

[7]. We have heard the learned counsel appearing on behalf of the appellant original informant – complainant as well as learned counsel appearing on behalf of the State and the learned counsel appearing on behalf of respondent no.2– accused. 7.1 It is required to be noted that after investigation a charge-sheet has been filed against respondent no.2 accused for the offences punishable under sections 406, 420 of IPC also. Thus it has been found that there is a prima facie case against the accused. It has come on record that the arrest warrant was issued by the learned Magistrate as far as back



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on 19.12.2018 and thereafter proceedings under sections 82–83 of Cr.PC have been initiated pursuant to the order passed by the learned Chief Judicial Magistrate dated 10.01.2019. Only thereafter respondent No.2 moved an application before the learned Trial Court for anticipatory bail which came to be dismissed by the learned Additional Sessions Judge, Saran, by a reasoned order. The relevant observations made by the learned Additional Sessions Judge, Saran, while rejecting the anticipatory bail application are asunder:– Perused the record. The prosecution case as alleged in the typed application of the informant Prem Shankar Prasad is that the informant is a retailer shopkeeper of medicines in the name of Maa Medical Store, Gandhi Chauk, Chapra and the petitioner is his stockiest who runs his business in the name of Rajnish Pharma, Mauna Pakari. The petitioner and the informant were on good terms, so, the informant gave Rs. 36,00,000/– to the petitioner in case and through cheque for purchase of medicine. When the required were not supplied to the informant, the informant demanded his Rs. 36,00,000/– then, the petitioner gave a cheque of Rs. 10,00,000/– bearing cheque no. 137763 dated 25.11.2017 which was in the Canara Bank of the petitioner which was dishonored by the bank with a note "insufficient fund". Thereafter the informant demanded his money in case. On 20.06.18 but, the brothers of the petitioner misbehaved with the informant. The brothers of the petitioner also threatened not to contact the police or the consequences will be worst: On this informant Chapra Town PS No. 453/2018 was registered and investigation proceeded.

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...Recently, in *Lavesh v. State (NCT of Delhi)* [(2012) 8 SCC 730], this Court (of which both of us were parties) considered the scope of granting relief under Section 438 vis-à-vis a person who was declared as an absconder or proclaimed offender in terms of Section 82 of the Code. In para 12, this Court held as under : (SCC p. 733) 12. From these materials and information, it is clear that the present appellant was not available for interrogation and investigation and was declared as absconder. Normally, when the accused is absconding and declared as a proclaimed offender, there is no question of granting anticipatory bail. We reiterate that when a person against whom a warrant had been issued and is absconding or concealing himself in order to avoid execution of warrant and declared as a proclaimed offender in terms of Section 82 of the Code he is not entitled to the relief of anticipatory bail. It is clear from the above decision that if anyone is declared as an absconder/proclaimed offender in terms of Section 82 of the Code, he is not entitled to the relief of anticipatory bail. Thus the High court has committed an error in granting anticipatory bail to respondent No.2 accused ignoring the proceedings under Section 82–83 of Cr.PC.

[8]. Even the observations made by the High Court while granting the anticipatory bail to respondent No.2 accused that the nature of accusation is arising out of a business transaction and therefore the accused is entitled to the anticipatory bail is concerned, the same cannot be accepted. Even in the case of a business transaction also there may be offences under the IPC more particularly sections 406, 420, 467, 468, etc. What is required to be considered is the



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nature of allegation and the accusation and not that the nature of accusation is arising out of a business transaction. At this stage, it is required to be noted that respondent No.2 – accused has been charge-sheeted for the offences punishable under sections 406 and 420, etc. and a charge-sheet has been filed in the court of learned Magistrate Court.

[9]. In view of the above and for the reasons stated above, the impugned judgment and order dated 14.08.2019 passed by the High Court granting anticipatory bail to respondent No.2 accused is unsustainable and deserves to be quashed and set aside and is accordingly quashed and set aside.

18. In the case of Prem Shankar Prasad, the amount involved was huge and the conduct of the accused deplorable. After considering the facts of the case in detail, Hon'ble Supreme Court dismissed the bail.

19. In Balveer Singh Bundela v. The State of Madhya Pradesh, 12 May 2020, M.Cr.C.No.5621/2020, single bench of Madhya Pradesh High Court observed,

[29]. In other words if chance of fleeing from justice exists then application under Section 438 of Cr.P.C. can be rejected and when a person is declared as proclaimed offender as per Section 82 of Cr.P.C. it means that factor (iii) of Section 438 (1) of Cr.P.C. manifested in reality or in other words possibility of applicant to flee from justice converted into reality. To put it differently, Section 82 of Cr.P.C. is manifestation of "Apprehension" as contained in Section 438 (1) factor (iii) of Cr.P.C. The judgments pronounced by the Apex Court in the case of Laves and Pradeep Sharma (supra) nowhere bar the maintainability of the application under Section 438 of Cr.P.C. in wake of person being declared as absconder under Sections 82 and 83 of Cr.P.C. and understandably so because this would not have been in consonance with letter and spirit of Constitution Bench judgment of Apex Court pronounced in the case of Gurbaksh Singh Sibbia etc. (supra) and Sushila Aggarwal and others (supra) as well as two Judge Bench of Apex Court in the case of Bharat Chaudhary and another (supra) as well as Ravindra Saxena (supra) because these judgments categorically held that anticipatory bail is maintainable even after filing of charge-sheet and till the person is not arrested.

[33]. Therefore, in the considered opinion of this Court, even if the police authority has declared award or prepared Farari Panchnama even then anticipatory bail application is maintainable, however, it is to be seen on merits that whether that application deserves to be considered and allowed as per the factors enumerated in Section 438 of Cr.P.C. itself and if any of those factors are not satisfied then the Court certainly has discretion to reject it. The said discretion has been given by Constitutional Bench decision of Hon'ble Apex Court in the case of Gurbaksh Singh Sibbia etc.



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20. Reference be also made to Prem Shankar Prasad v State of Bihar, 2021 SCC OnLine SC 955.

21. In Abhishek v State of Maharashtra, (2022) 8 SCC 282, Hon'ble Supreme Court holds,

[68]. As regards the implication of proclamation having been issued against the appellant, we have no hesitation in making it clear that any person, who is declared as an “absconder” and remains out of reach of the investigating agency and thereby stands directly at conflict with law, ordinarily, deserves no concession or indulgence. By way of reference, we may observe that in relation to the indulgence of pre-arrest bail in terms of Section 438 CrPC, this Court has repeatedly said that when an accused is absconding and is declared as proclaimed offender, there is no question of giving him the benefit of Section 438 CrPC. [For example, Prem Shankar Prasad v. State of Bihar, (2022) 14 SCC 529: 2021 SCC OnLine SC 955] ...’

22. In State of Haryana v. Dharamraj, 2023INSC784, a two-judge bench of Supreme Court holds,

[16]. The respondent, without first successfully assailing the order declaring him as a proclaimed offender, could not have proceeded to seek anticipatory bail. Looking to the factual prism, we are clear that the respondent’s application under Section 438, CrPC should not have been entertained, as he was a proclaimed offender. We may note that in Laves v State (NCT of Delhi), (2012) 8 SCC 730, this Court was categorical against grant of anticipatory bail to a proclaimed offender. In the same vein, following Laves (supra) is the decision in State of 11 Madhya Pradesh v Pradeep Sharma, (2014) 2 SCC 171, where this Court emphasised that a proclaimed offender would not be entitled to anticipatory bail. Of course, in an exceptional and rare case, this Court or the High Courts can consider a plea seeking anticipatory bail, despite the applicant being a proclaimed offender, given that the Supreme Court and High Courts are Constitutional Courts. However, no exceptional situation arises in the case at hand. Following Pradeep Sharma (supra), in Prem Shankar Prasad v State of Bihar, 2021 SCC OnLine SC 955, this Court was unequivocal that the High Court therein erred in granting anticipatory bail ignoring proceedings under Sections 82 and 83, CrPC. In Abhishek v State of Maharashtra, (2022) 8 SCC 282, this Court concluded...

23. In Srikant Upadhyay v. State of Bihar, 2024-INSC-202, decided on March 14, 2024, Hon'ble Supreme Court holds,

[24]. We have already held that the power to grant anticipatory bail is an extraordinary power. Though in many cases it was held that bail is said to be a rule, it cannot, by any stretch of imagination, be said that anticipatory bail is the rule. It cannot be the rule and the question of its grant should be left to the cautious and judicious discretion by the Court depending on the facts and circumstances



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of each case. While called upon to exercise the said power, the Court concerned has to be very cautious as the grant of interim protection or protection to the accused in serious cases may lead to miscarriage of justice and may hamper the investigation to a great extent as it may sometimes lead to tampering or distraction of the evidence. We shall not be understood to have held that the Court shall not pass an interim protection pending consideration of such application as the Section is destined to safeguard the freedom of an individual against unwarranted arrest and we say that such orders shall be passed in eminently fit cases. At any rate, when warrant of arrest or proclamation is issued, the applicant is not entitled to invoke the extraordinary power. Certainly, this will not deprive the power of the Court to grant pre-arrest bail in extreme, exceptional cases in the interest of justice. But then, person(s) continuously, defying orders and keep absconding is not entitled to such grant.

24. In *Asha Dubey v. The State of Madhya Pradesh*, Cr.A 4564-2024, decided on Nov 12, 2024, Hon'ble Supreme Court holds,

[8]. Coming to the consideration of anticipatory bail, in the event of the declaration under Section 82 of the Cr.P.C., it is not as if in all cases that there will be a total embargo on considering the application for the grant of anticipatory bail.

[9]. When the liberty of the appellant is pitted against, this Court will have to see the circumstances of the case, nature of the offence and the background based on which such a proclamation was issued. Suffice it is to state that it is a fit case for grant of anticipatory bail, on the condition that the appellant shall cooperate with the further investigation. However, liberty is also given to the respondents to seek cancellation of bail that has been granted, in the event of a violation of the conditions which are to be imposed by the Trial Court or if there are any perceived threats against the witnesses.

25. Section 84 of BNSS, 2023 which is analogous to Section 82 of CrPC, 1973 neither creates any riders nor imposes any restrictions in the filing of anticipatory bails by the proclaimed offenders. Even in *Lavesh v. State (NCT of Delhi)*, (2012) 8 SCC 730, (Para 10), while laying down the law on anticipatory bails to absconders, Hon'ble Supreme Court structured the pronouncement by the words, "Normally." A balanced approach would work as an incentive, a catalyst for proclaimed offenders to surrender to the Court of Law, speeding up the process, and bringing the guilty to Justice and Justice to the guilty.

26. An analysis of entire allegations creates a possibility that the circumstances are not normal and also that the case is neither exceptional and nor falls in the category of rare.



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27. A perusal of the bail petition and the documents attached prima facie points towards the petitioner's involvement and does not make out a case for bail. The impact of crime would also not justify bail. Any further discussions will likely prejudice the petitioner; this court refrains from doing so.

28. Any observation made hereinabove is neither an expression of opinion on the case's merits nor shall the trial Court advert to these comments.

29. **Petition dismissed.** Interim orders, if any, are recalled with immediate effect. All pending applications, if any, are disposed of.

(ANOOP CHITKARA)
JUDGE

01.09.2025
Jyoti Sharma

Whether speaking/reasoned: Yes
Whether reportable: No.