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(217)

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

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Date of decision :16.09.2025

DEEPAK

... Petitioner

Versus

STATE OF HARYANA

...Respondent

CORAM: HON'BLE MR. JUSTICE JASJIT SINGH BEDI

Present: Mr. S.K. Bishnoi, Advocate
for the petitioner.

Mr. Viney Phogat, 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.249 dated 08.05.2022 (Annexure P-1) registered under Section 379 IPC, 1860 at Police Station Civil Lines Sirsa, District Sirsa, Haryana.

2. The present FIR came to be registered at the instance of Neeraj Kumar Makkar S/o Lt. Gian Chand Makkar and the same reads as under:-

“To The S.H.O. Khairpur Chowki, Hisar Road. Sirsa Dated: 08-05-2022. Sub: Complaint regarding Stolen of Hero Splender bike from outside of my home having number HR-24Z-1963. R/Sir, With due respect on the subject cited- above, it is stated that, I Neeraj Kumar Makkar S/o Lt. Gian Chand Makkar is residing at 13/1250, Gali Purani Khairpur Chowki Wali, Gobind Nagar, Sirsa since last 7 years. Further it is stated that I've my own bike having number HR-24Z-1963. Yesterday i.e. on 07-05-2022 my family goes out to attend the birthday party, at that time bike was parked in front of my



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house, My family came back at 12:15 am at home and asked me to park the bike inside. In night between 10:32 to 10:55 bike was stolen by someone from the outside of my house. As I check the CC TV footage at my neighbor house. I found that somebody hack the camera because it was not showing the recording between 10:32 to 10:34 pm. In this regard I dial 112 and make complaint, after that one PCR came to my house and asked me about the matter I told them about the stolen of my bike. This is second time in my street that bike was stolen. Firstly, my neighbor bike was stolen and that time mine. So, it's my humble request to you, look into this matter personally and help me to get my bike back. I'll be highly thankful to you for this act of kindness Regards, sd/- N.Makkar Neeraj Makkar Sio Makkar."

3. The learned counsel for the petitioner contends that the petitioner has been falsely implicated in the present case. He is not named in the FIR but has been implicated on the basis of the disclosure statement of his co-accused Sonu. The recovery of the stolen motorcycle has already been effected from the co-accused of the petitioner against whom the challan stands filed. As the petitioner is ready and willing to join investigation, he is entitled to the concession of anticipatory bail.

4. A status report dated 14.09.2025 by way of an affidavit of Sanjeev Balhara, HPS, Deputy Superintendent of Police, Sirsa 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 investigation of the case, evidence was found against co-accused Sonu who was confined in judicial custody, Hisar in FIR No.424 dated 02.06.2022 U/s 411, 379 IPC P.S.Civil Line Sirsa. In the



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instant case, he was taken on production warrants wherein he disclosed the name of the present petitioner. The petitioner is a habitual offender with as many as 10 other cases registered against him. As the offence stands *prima facie* established and the investigation is to be taken to its logical conclusion, the custodial interrogation of the petitioner is certainly required and therefore, he is not entitled to the concession of 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.



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7. Though, the petitioner is not named in the FIR, his name has been disclosed by his co-accused Sonu who was arrested in the present case.

8. The petitioner is a habitual offender with 10 other cases registered against him. The details of the said FIRs are as under:-

Sr. No.	FIR Nos. and date	Sections	Police Station
1.	FIR No.345 dated 16.12.2023	U/s 294, 506, 34 IPC	P.S. N.S. Chopta
2.	FIR No.53 dated 11.03.2024	U/s 457, 380 IPC	P.S. N.S. Chopta
3.	FIR No.114 dated 26.05.2020	U/s 379A, 34 IPC	P.S. N.S. Chopta
4.	FIR No.75 dated 12.04.2021	U/s 147, 149, 323, 506 IPC	P.S. N.S. Chopta
5.	FIR No.108 dated 28.04.2022	U/s 379 IPC	P.S. N.S. Chopta
6.	FIR No.774 dated 29.12.2021	U/s 379 IPC	P.S. City Hisar
7.	FIR No.743 dated 18.12.2021	U/s 379 IPC	P.S. City Hisar
8.	FIR No.1054 dated 28.11.2022	U/s 15/29 NDPS Act	P.S. City Sirsa
9.	FIR No.335 dated 17.05.2022	U/s 379 IPC	P.S. City Sirsa
10.	FIR No.209 dated 20.09.2024	U/s 379-B IPC	P.S. Sadar Sirsa

9. In view of the fact that the offence stands *prima facie* established, the investigation is to be taken to its logical conclusion and as the petitioner has criminal antecedents, his custodial interrogation is certainly necessary.

8. In view of the aforementioned discussion, I find no merit in the present petition. Therefore, the same stands dismissed.

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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

16.09.2025
JITESH