

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

**CRM-M No.52469 of 2025
Date of Decision: 17.09.2025**

Rizwan

..... Petitioner

Versus

State of Haryana

....Respondent

CORAM : HON'BLE MR. JUSTICE RAJESH BHARDWAJ

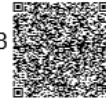
Present: Mr. Nasir Jamal, Advocate
for the petitioner.

Mr. Sumit Jain, Addl. A.G., Haryana

RAJESH BHARDWAJ, J.

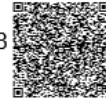
1. Present petition has been filed praying for the grant of anticipatory bail to the petitioner in case bearing FIR No.418, dated 28.11.2024, under Sections 303(2), 317(2) and 61(2) of BNS, 2023 registered at Police Station Ferozepur, Jhirka, District Nuh.

2. Succinctly the facts of the case are that the police while on patrolling on 28.11.2024 received a secret information to the effect that Irfan, Rizwan @ Puchcha (petitioner), Sahida and driver Jakar along with their accomplices had broken the lock of Amazon's vehicle truck bearing No.HR 55AP-1553 in village Gahira. It was informed that they had stolen boxes of Redmi Mobile phones and other goods and left the truck parked in front of HP Petrol Pump and, thereafter, escaped. It was informed that the stolen boxes of mobile phones were brought and hidden in the house of Irfan. If the raid is conducted then all the accused could be arrested along with the boxes of mobile phones. On receiving the



secret information the raiding team was constituted and raid was conducted at the house of Irfan. However, Irfan, Rizwan and Sahida fled away from the spot on seeing the Police party. On the search of the house of Irfan 1300 mobiles phone were recovered. Videography of the recovery from the house of accused, namely, Irfan was also conducted. Thus, the FIR was registered and investigation commenced. Apprehending his arrest, the petitioner approached the Court of learned Additional Sessions Judge, Nuh praying for the grant of anticipatory bail. However, after hearing both the sides, finding no merit in the same, the learned Additional Sessions Judge, Nuh dismissed the petition filed by the petitioner vide his order dated 13.08.2025. Hence being aggrieved, the petitioner is before this Court by way of filing the present petition praying for the grant of anticipatory bail.

3. Learned counsel for the petitioner has contended that the petitioner has been falsely and frivolously implicated in the present case. It is submitted that the alleged recovery was effected from house of co-accused, namely, Irfan and thus, the petitioner had no concern with the recovery effected. It is submitted that the FIR has been registered on the basis of secret information but no independent witnesses was joined. He submits that videography of the incident was made by an ASI and thus, the same is doubtful. He submits that the case has been planted upon the petitioner in a clandestine manner and thus, there being no *prima facie* case made against the petitioner, he deserves to be granted anticipatory bail.



4. Learned State counsel had opposed the submission made by counsel for the petitioner and has submitted that the petitioner was specifically named in the secret information. The police had conducted raid at the house of co-accused, namely, Irfan and had recovered 1300 mobile phones. He submits that the petitioner managed to escape at the time of raid. It is submitted that the allegations against the petitioner are serious in nature and for a free and fair investigation his custodial interrogation is required. He has submitted that no case for the grant of anticipatory bail to the petitioner is made out and thus, the present petition being devoid of merit deserves to be dismissed.

5. On hearing of the counsel for the parties and perusing the record, it is deciphered that the petitioner was specifically named in the secret information received. The police had raided house of co-accused, namely, Irfan, from where 1300 mobile phones were recovered. The petitioner, however, managed to escape at the time of raid. Though co-accused, namely, Sahida has been granted regular bail by the trial Court, however, the petitioner is before this Court praying for grant of anticipatory bail.

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

“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 may apply to the High Court or the Court of Session for a direction*



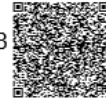
under this section; and that Court may, if it thinks fit, direct that in the event of such arrest, he shall be released on bail.

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-*

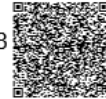
- (i) a condition that the person shall make himself available for interrogation by a police officer as and when required;*
- (ii) a condition that the person shall not, directly or indirectly, make any inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade 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.”*

7. As per the law settled by the Hon'ble Supreme Court, in ***Gurbaksh Singh Sibbia Vs. State of Punjab***, AIR 1980 SC 1632, while granting anticipatory bail, the Court is to maintain a balance between the individual liberty and the interest of society. However, the interest of the society would always prevail upon the right of personal liberty. The relevant part of the judgment is as follows:-

“31. *In regard to anticipatory bail, if the proposed accusation appears to stem not from motives of furthering the ends of justice but from some ulterior motive, the object being to injure and humiliate the applicant by having him arrested, a direction for the release of the applicant on bail in the event of his arrest would generally be made. On the other hand, if it appears likely, considering the antecedents of the applicant, that taking advantage of the order of*



anticipatory bail he will flee from justice, such an order would not be made. But the converse of these propositions is not necessarily true. That is to say, it cannot be laid down as an inexorable rule that anticipatory bail cannot be granted unless the proposed accusation appears to be actuated by mala fides; and, equally, that anticipatory bail must be granted if there is no fear that the applicant will abscond. There are several other considerations, too numerous to enumerate, the combined effect of which must weigh with the court while granting or rejecting anticipatory bail. The nature and seriousness of the proposed charges, the context of the events likely to lead to the making of the charges, a reasonable possibility of the applicant's presence not being secured at the trial, a reasonable apprehension that witnesses will be tampered with and "the larger interests of the public or the state" are some of the considerations which the court has to keep in mind while deciding an application for anticipatory bail. The relevance of these considerations was pointed out in State v. Captain Jagjit Singh (1962) 3 SCR 622, which, though, was a case under the old Section 498 which corresponds to the present Section 439 of the Code. It is of paramount consideration to remember that the freedom of the individual is as necessary for the survival of the society as it is for the egoistic purposes of the individual. A person seeking anticipatory bail is still a free man entitled to the presumption of innocence. He is willing to submit to restraints on his freedom, by the acceptance of conditions which the court may think fit to impose, in consideration of the assurance that if arrested, he shall be enlarged on bail."



8. The Hon'ble Supreme Court in *State Vs. Anil Sharma*, (1997) 7SCC 187, 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 ensconced with a favorable order under Section 438 of the Code. In a case like this effective interrogation of a suspected person is of tremendous advantage in disinterring many useful informations and also materials which would have been concealed. Success in such interrogation would elude if the suspected person knows that he is well protected and insulated by a pre-arrest bail order during the time he is 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 presume that responsible police officers would conduct themselves in a responsible manner and that those entrusted with the task of disinterring offences would not conduct themselves as offenders.”

9. 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 found. Allegations made against the petitioner are serious in nature. Needless to say, the investigation is at the initial stage and in the facts and circumstances, custodial interrogation of the petitioner would be



essential and granting anticipatory bail to the petitioner at this stage would scuttle the ongoing investigation.

10. In view of the overall facts and circumstances of the case, the petitioner does not qualify for the grant of anticipatory bail and the same is hereby dismissed. Nothing said herein shall be treated as an expression of opinion on the merits of the case.

17.09.2025

ps-I

(RAJESH BHARDWAJ)
JUDGE

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