



219 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-55482-2024
Date of Decision: 05.03.2025

Dilshad ...Petitioner
Versus
State of Haryana ...Respondent

CORAM: HON'BLE MR. JUSTICE ANOOP CHITKARA

Present: Mr. Nafeesh Ahmed, Advocate for the petitioner.
Ms. Harpreet Kaur, A.A.G, Haryana.
Mr. Anas Ahmed, Advocate for the complainant.

ANOOP CHITKARA, J.

FIR No.	Dated	Police Station	Sections
106	27.08.2024	Cyber Crime Nuh, District Nuh, Haryana	296, 308(2), 351(3), 79 of BNS, 2023 (Section 67 of IT Act)

1. The petitioner apprehending arrest in the FIR captioned above has come up before this Court under Section 438 CrPC seeking anticipatory bail.
2. In paragraph 8 of the bail petition, the accused declares that he has no criminal antecedents.
3. The facts and allegations are being taken from the status report filed by the State, which reads as follows:

“3. That the brief facts of the present case are that a complaint was submitted by the complainant Munfida against the petitioner Dilshad alleging therein that the petitioner Dilshad took her photographs in his mobile phone and thereafter he started blackmailing her for developing illicit relations with him. When she did not agree, Dilshad made her photos viral on the social media and made obscene comments against her on social media. The complainant further stated that she was informed by Shokeen son of Aasi and Satbir son of Balbir that earlier due to her viral photos her engagement was cancelled with two boys. The complainant further stated that now she has been married with a boy of village Tai, District Nuh, but Dilshad is still sending her photographs and obscene comments to her husband on social media. Dilshad also sent her photographs from his mobile No.90536xxxx to the mobile phones of Shokeen and Satbir. The complainant also stated that when her husband



confronted Dilshad about the comments, he threatened to kill her husband. The complainant further stated that Dilshad has made her photos viral on the Facebook ID Dilshadkhan <https://www.facebook.com/profile.php?id=100047736497897>. Due to this, her marriage is at stake. Prayer was made for taking legal action. Thereupon the above mentioned FIR No.106 dated 27.08.2024 under Sections 296, 308(2), 351(3), 79 BNS was registered at P.S. Cyber Nuh.”

4. Counsel for the petitioner submits that pursuant to previous order dated 01.03.2025, the petitioner had joined the investigation. On instructions, he undertakes that petitioner shall not repeat any offence and in case, he does so, he shall have no objection if present bail petition is cancelled.

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 his family.

6. The State's counsel as well counsel for the complainant opposes bail and refers to the reply.

7. It would be appropriate to refer to the following portions of the reply, which read as follows:

“8. That the role of the petitioner Dilshad in the present case is that he is the brother-in-law (Jija) of the complainant Munfida and he was keeping a bad eye on her. The petitioner made the photos of the complainant (with obscene comments) viral in the social media and threatened the complainant that he will viral her videos. When the husband of the complainant confronted the petitioner, he also threatened to kill him.

9. That the evidence against the petitioner in the present case is that he has been specifically named by the complainant in the present FIR. Further, the witness Shokeen (brother of the complainant) has also named the petitioner in his statement u/s 180 BNSS wherein he has clearly stated that the petitioner was keeping bad eyes on the complainant and due to the said reason, the petitioner has made her photos viral on the social media with obscene comments, so as to defame her and her family members. The statement u/s 180 BNSS of Shokeen is attached herewith as Annexure R-2 for kind perusal of this Hon'ble Court.”

8. Counsel for the complainant as well as State counsel submits that the offence is heinous and the petitioner intentionally is not handing over his mobile phone to the investigator under the pretext that it was lost. Counsel for the State submits that they



would certainly proceed against him for destruction of evidence if the investigator finds such circumstances but they insist to impose some stringent conditions.

REASONING:

9. Evidence in the case in hand is digital and there is no need for custodial interrogation for that purpose, as concerned for the surrender of phone used in crime, if the same is not produced during interrogation in that case investigator is at liberty to invoke the relevant section in accordance with law.

10. Pre-trial incarceration should not be a replica of post-conviction sentencing. The evidence might be prima facie sufficient to launch prosecution or to frame charges, but this Court is not considering the evidence at that stage but is analyzing it for the stage of anticipatory bail. An analysis of the above does not justify custodial interrogation or pre-trial incarceration.

11. Given the above, the penal provisions invoked coupled with the prima facie analysis of the nature of allegations, evidence and the other factors peculiar to this case, there would be no justifiability for custodial interrogation or the pre-trial incarceration at this stage. Without commenting on the case's merits, in the facts and circumstances peculiar to this case, and for the reasons mentioned above, the petitioner makes a case for bail.

12. Given above, provided the petitioner is not required in any other case, the petitioner shall be released on anticipatory bail in the FIR captioned above subject to furnishing bonds to the satisfaction of the Arresting Officer, and if the matter is before a Court, then the concerned Court and due to unavailability before any nearest Ilqa Magistrate/duty Magistrate. Before accepting the surety, the concerned Officer/Court must be satisfied that if the accused fails to appear, such surety can produce the accused.

13. While furnishing a personal bond, the petitioner shall mention the following personal identification details:

1.	AADHAR number	
2.	Passport number (If available) and when the attesting officer/court considers it appropriate or considers the accused a flight risk.	
3.	Mobile number (If available)	
4.	E-Mail id (If available)	

14. This order is subject to the petitioner's complying with the following terms.

15. The petitioner is directed to join the investigation within seven days of uploading this order on the official webpage of the High Court of Punjab and Haryana and as and when called by the Investigator. The petitioner shall be in deemed custody for Section 27 of the Indian Evidence Act, 1872/ Section 23 of BSA, 2023. The petitioner shall join the



investigation as and when called by the Investigating Officer or any Superior Officer and shall cooperate with the investigation at all further stages as required. In the event of failure to do so, the prosecution will be open to seeking cancellation of the bail. During the investigation, the petitioner shall not be subjected to third-degree, indecent language, inhuman treatment, etc.

16. The petitioner shall abide by all statutory bond conditions and appear before the concerned Court(s) on all dates. The petitioner shall not tamper with the evidence, influence, browbeat, pressurize, induce, threaten, or promise, directly or indirectly, any witnesses, Police officials, or any other person acquainted with the facts and circumstances of the case or dissuade them from disclosing such facts to the Police or the Court.

17. In case the Investigator/Officer-In-Charge of the concerned Police Station arraigns another section of any penal offense in this FIR, and if the new section prescribes a maximum sentence that is not greater than the sections mentioned above, then this bail order shall be deemed to have also been passed for the newly added section(s). However, suppose the newly inserted sections prescribe a sentence exceeding the maximum sentence prescribed in the sections mentioned above; then, in that case, the Investigator/Officer-In-Charge shall give the petitioner notice of a minimum of seven days, providing an opportunity to avail the remedies available in law.

18. *This bail is conditional, and the foundational condition is that if the petitioner indulges in any non-bailable offense or repeat similar offence, the State may file an application for cancellation of this bail before the Sessions Court, which shall be at liberty to cancel this bail.*

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

20. A certified copy of this order would not be needed for furnishing bonds, and any Advocate for the Petitioner can download this order along with case status from the official web page of this Court and attest it to be a true copy. If the attesting officer wants to verify its authenticity, such an officer can also verify its authenticity and may download and use the downloaded copy for attesting bonds.

21. **Petition allowed** in terms mentioned above. All pending applications, if any, stand disposed of.

(ANOOP CHITKARA)
JUDGE

05.03.2025/Jyoti-II

Whether speaking/reasoned: Yes
Whether reportable: No.