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(211)

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M-53564-2025

Date of decision : 29.10.2025

MOHAMMAD AARIF

... Petitioner

Versus

STATE OF HARYANA

...Respondent

CORAM: HON'BLE MR. JUSTICE JASJIT SINGH BEDI

Present: Ms. Rosi, 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.287 dated 06.09.2024 registered under Section 305 of BNS, 2023 (Section 61(2) of BNS, 2023) at Police Station Kasola, District Rewari.

2. The present FIR came to be registered at the instance of Ramotar S/o Jailram and the same reads as under:-

“To, The Outpost Incharge Gadhi Bolni, Sir, I request that I am Ramotar s/o Jailaram, resident of Pithanwas ki Dhani and I have kept goats. On dated 6/9/2024, some unknown person stole 5 goats from the barn behind my house at around 3 o'clock in the night by putting them in a vehicle. When I woke up, I raised an alarm but the thieves ran away with the vehicle and a person whose name and address is not known went on dated 4/9/24 at around 5 o'clock in the evening on a motorcycle no. HR36AQ 7058 where the goats sit after doing a recce of that place. I have full suspicion that the

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motorcyclist who went on a recce on dated 4/9/24, along with his partner, has stolen my goats. There is a CCTV camera installed in my neighborhood in which the entire incident has been recorded. I request you to trace the thieves and recover my goats and action should be taken against the thieves. Sd- Ramotar Applicant Ramotar.”

3. During the course of investigation on an examination of the CCTV footage at the spot, the record of the owner of the motorcycle bearing No.HR-36-AQ/7058 was obtained. The said motorcycle was recovered from the possession of Mubin alias Mubbi who was arrested. He suffered his disclosure statement admitting the factum of committing the offence in question under Section 61(2) of the BNSS was added. He got recovered Rs.1300/- out of the sale proceeds of the goats. On further investigation, Amir alias Khanna was arrested. Both these accused suffered their disclosure statements to the effect that the petitioner-Mohammad Aarif was present along with Amir, Jaid and Billu in the car at the time of the commission of the theft.

4. The learned counsel for the petitioner contends that the petitioner has only been named in the disclosure statement of his accused which has little evidentiary value. His custodial interrogation is not required and as he is ready and willing to join investigation, he be granted the concession of anticipatory bail.

5. A status report dated 16.10.2025 by way of an affidavit of Surender Sheoran, HPS, Deputy Superintendent of Police, Bawal District Rewari 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



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status report, he contends that the petitioner has been named in the disclosure statement of the arrested accused. He is a habitual offender with five other cases registered against him most of them of a similar nature. Therefore, he is not entitled to the concession of anticipatory bail.

6. I have heard the learned counsel for the parties.

7. 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.

8. Admittedly, the petitioner is named in the disclosure statement of his co-accused. He is an accused in five other cases. The details of which are as under:-

Sr. No.	FIR Nos. and date	Sections	Police Station
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1.	FIR No.270 of 2022	Section 379 IPC	P.S. Raini, District Alwar
2.	FIR No.152 dt. 11.05.2024	Section 379 IPC	P.S. Dharuhera, District Rewari
3.	FIR No.181 dt. 30.05.2024	Section 379 IPC	P.S. Dharuhera, District Rewari
4.	FIR No.260 dt. 26.08.2024	Section 305 BNS	P.S. Kasola, District Rewari
5.	FIR No.316 dt. 30.08.2024	Section 303 BNS	P.S. Dharuhera, District Rewari

9. Keeping in view the allegations levelled against the petitioner and as the investigation is to be taken to its logical conclusion, the custodial interrogation of the petitioner is certainly necessary.

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

11. 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

29.10.2025
JITESH

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