



In the High Court of Punjab and Haryana, at Chandigarh

Criminal Misc. No. M-53509 of 2025

Date of Decision: 22.09.2025

Ajay

... Petitioner(s)

Versus

State of Haryana

... Respondent(s)

CORAM: Hon'ble Mr. Justice Surya Partap Singh.

Present: Mr. Vikas Bishnoi, Advocate
for the petitioner(s).

Mr. Satbir Singh Goripuria, Deputy Advocate General,
Haryana.

Surya Partap Singh, J.

1. For the commission of offence punishable under Sections 140(3) and 390(4) of BNS [Sections 309(2), 351(3) and 61 of BNS were added later on], the FIR No. 180 dated 29.07.2025, Police Station City Ratia, District Fatehabad, has been lodged. For the investigation of above-said case, the police is trying to arrest the petitioner. Apprehending his arrest, the instant petition for anticipatory bail has been filed by the petitioner.

2. Notice of motion.

3. Since advance notice has already been served upon the State, Mr. Satbir Singh Goripuria, Deputy Advocate General, Haryana, accepts notice on behalf of the respondent, and waives service.

4. Mr. Bhavesh Ola, Advocate, enters appearance on behalf of complainant and files his vakalatnama. It be taken on record.

5. Heard.

6. With regard to instant petition seeking for anticipatory bail, it has been contended by learned counsel for the petitioner that the name of petitioner does not figure in the FIR, and that he has been falsely implicated by the Investigating Agency. It has also been highlighted by learned counsel for the petitioner that during the course of investigation, it has been found by the Investigating Agency that one of the accused, namely Mahender has been named in the FIR, but he has been found to be innocent in this case. It has also been argued that no specific role has been attributed to the petitioner, and therefore, he is entitled for the benefit of anticipatory bail. The learned counsel for the petitioner has also contended that the girl has already been recovered at the instance of co-accused, namely Sandeep and Ravi.

7. The learned State counsel, being assisted by learned counsel for the complainant, has controverted the above mentioned arguments of the learned counsel for the petitioner. According to learned State counsel, the allegations in this case are serious, i.e. with regard to kidnapping of a girl from school in broad day-light.

8. The record has been perused carefully.

9. A perusal of the record shows that there are very specific and categorical allegations with regard to kidnapping of a girl in broad daylight. If the benefit of anticipatory bail in this case is accorded to the petitioner, it will adversely affect the outcome of investigation in this case. In fact, in such situation the investigation may not take a proper headway, and it will be very difficult for the Investigating Agency to collect evidence to connect

the petitioner with the commission of crime. Otherwise also, the remedy of anticipatory bail is an extraordinary remedy, and it ought not to be granted in a routine manner.

10. It shall not be out of place to mention here that remedy of anticipatory bail is an extraordinary remedy for a person who is accused of grave offence. With regard to such relief, the Hon'ble Supreme Court of India in the case of *Srikant Upadhyay v. State of Bihar 2024 SCC OnLine SC 282*, has observed that power to grant anticipatory bail is extraordinary power. In the above-mentioned case, it has also been held that irrespective of the fact that in a number of cases it has been held that bail is a rule, it cannot, by any stretch of imagination, be said that anticipatory bail is a rule.

11. The Hon'ble Supreme Court of India in the above mentioned case has further observed that rule of anticipatory bail is a question of judicial discretion depending upon the facts and circumstances of each case. According to Hon'ble Apex Court, when called upon to exercise the above said power the Court concerned has to be very cautious, as the grant of interim protection to the accused in serious cases may lead to miscarriage of justice, and hamper the investigation.

12. Similarly, in the case of *Nikita Jagganath Shetty alias Nikita Vishwajeet Jadhav v. The State of Maharashtra and Another (Special Leave Petition (Criminal) No. 10255 of 2024, decided on 21.07.2024)*, the Hon'ble Supreme Court of India has held that anticipatory bail is an exceptional remedy and it ought not be granted in a routine manner. As per the Hon'ble Supreme Court, there must exist strong reasons for extending indulgence of this extraordinary remedy to a person accused of grave

offence.

13. In the case of *Gurbaksh Singh Sibba etc. v. State of Punjab* **1980 SCC (2) 565**, the Hon'ble Supreme Court of India has also held that:-

- i) the power under Section 438, Criminal Procedure Code, is of an extra-ordinary character and must be exercised sparingly in exceptional cases only.
- ii) the said power is not unguided or uncanalized but all the limitations imposed in the preceding Section 437, are implicit therein and must be read into Section 438.
- iii) in addition to the limitations mentioned in Section 437, the petitioner must make out a special case for the exercise of the power to grant anticipatory bail.
- iv) Where a legitimate case for the remand of the offender to the police custody under Section 167(2) can be made out by the investigating agency or a reasonable claim to secure incriminating material from information likely to be received from the offender under Section 27 of the Evidence Act can be made out, the power under Section 438 should not be exercised.

14. As a sequel to observations made in the foregoing paragraphs, the present petition, being devoid of merits, is hereby dismissed.

(Surya Partap Singh)
Judge

September 22, 2025
“DK”

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