



IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

103+211

CRM-M-56055-2025(O&M)
Decided on: 03.11.2025

RAJENDER KUMAR

... Petitioner(s)

Versus

STATE OF HARYANA AND ANOTHER

... Respondent(s)

CORAM: HON'BLE MS. JUSTICE KIRTI SINGH

PRESENT: Mr. S.K.Sirsa, Advocate
for the petitioner(s).

Mr. Anmol Malik, DAG, Haryana.

Mr. S.K.Bishnoi, Advocate for
respondent No.2.

KIRTI SINGH, J. (Oral)CRM-43861-2025

This is an application for placing on record the affidavits of eye witnesses as Annexures P-6 & P-7.

Heard. For the reasons mentioned in the application, the same is allowed and Annexures P-6 & P-7 are taken on record subject to all just exceptions.

CRM-M-56055-2025(O&M)

Apprehending arrest in FIR No.339 dated 09.09.2025, under Sections 12 and 8 of POCSO Act, 2012 and Section 75-1 of BNS, 2023 (added later on), registered at Police Station Sirsa Sadar, District Sirsa, the petitioner has preferred this petition under Section 482 of Bharatiya Nagarik Suraksha Sanhita, 2023 (BNSS, 2023) for grant of pre-arrest bail.

2. The contents of the aforesaid FIR are reproduced herein below:-

“Statement of xxx, son of Shri Iqbal Singh, resident of Malekan, District Sirsa, age 13 years. M.B. No. xxx stated that I am a resident of the above address. I study in Government School. On dated 02/09/2025, after school was over, I was returning home at 3:15 pm



when Rajinder Kumar Kamboj, who owns a Manyari shop, called me and held me forcefully from front and back and did obscene acts with me. He asked me about school and other dirty things like do you flirt with girls and do you have a girlfriend, and gave me Rs. 10 and told me not to tell this at home. In the meantime I gave him fist blows and ran away from there. Then I told the whole thing to my parents at home. Then a discussion was going on in our Panchayat but he did not come when called by the Panchayat. Today I have come to the police station with my father and am writing this statement without any pressure. I have read and heard the statement, okay. Legal action should be taken against Rajinder Kumar Kamboj.”

3. Learned counsel for the petitioner *inter alia* submits that the petitioner has been falsely implicated in the present case due to previous enmity between the families. As per the FIR, the alleged incident took place on 02.09.2025 at about 3:15 P.M., when the victim was returning from school. It is contended that if the victim was indeed coming from school at that time, he ought to have been in school uniform. However, CCTV footage from the house of the neighbor of the victim, covering 2:47 P.M. to 3:15 P.M., shows the victim without school dress, cycling near his house, accompanied at times by his mother and uncle, while his grandfather is also visible outside the house. The photographs from the CCTV footage are annexed herewith as Annexures P-3 and P-4. It is submitted that the allegations are false, concocted, and motivated, seemingly made at the instance of elders or due to local political rivalry to malign and defame the petitioner. The alleged place of occurrence is a busy market area with several shops, yet no independent witness has supported the version of the complainant. It is also relevant to mention that the wife and son of the petitioner were present in the shop at the relevant time. The FIR suffers from unexplained delay of seven days, is improbable and uncorroborated, and appears to be an afterthought. The petitioner, aged 39 years and with no criminal antecedents, is ready to join investigation and cooperate.

3. Per contra, learned counsel for respondent No.2/complainant submits that the conduct of the petitioner is not above board, as he had



previously indulged in a similar act, for which a panchayat was convened, wherein the petitioner had apologized for his earlier misconduct. It is, therefore, submitted that considering his habitual misconduct, it is therefore prayed that the present petition seeking the concession of anticipatory bail of petitioner be dismissed.

4. Learned State counsel has opposed the prayer made in the present petition and has filed a status report by way of an affidavit of the IPS, Assistant Superintendent of Police, Ellenabad, District Sirsa, on behalf of the respondent-State, which is taken on record. He while relying upon the contents of the said status report submits that during the course of investigation, on 09.09.2025, the medical examination of victim was conducted at the Civil Hospital, Sirsa. After medical examination, the custody of the victim was handed over to his parents. It is further submitted that on 12.09.2025, the statement of victim was recorded under Section 183 BNSS before the learned ACJM, Sirsa. The victim was also counselled at the Child Welfare Committee, Sirsa. Subsequently, on 19.09.2025, the place of occurrence was inspected at the instance of the victim and a rough site plan was prepared. Statements of relevant witnesses were also recorded. After completion of these proceedings, the custody of the victim was again handed over to his parents. It is further stated that on 24.09.2025, the facts of the case were verified by the SHO, Police Station Sadar, Sirsa, and Section 75(1) BNS was added in the case. The petitioner/accused had earlier moved an application for anticipatory bail before the learned Additional Sessions Judge, Sirsa, which was dismissed vide order dated 19.05.2025 (Annexure P-5). The petitioner is specifically named in the FIR as well as in the statement of the victim recorded under Section 183 BNSS (Annexure R-2) and has been found involved in the commission of a heinous offence under



the POCSO Act. Statement of the victim recorded under Section 183 BNSS is reproduced hereinbelow:

“Stated that on 02.09.2025 I was arrived from school and had gone to shop for taking some thing. Then I was going to my house. Rajender called me and caught me from my urination place and back and took me inside. Then he asked obscene things from me. He done wrong act with me. He tried to disrobe my Nikkar, then I punched him and ran away. He said to me keep Rs.10/- and do not tell anything in home.”

Therefore, in view of the seriousness of the allegations, the petitioner is not entitled to the concession of anticipatory bail.

5. Heard the rival submissions made.
6. In ***Srikant Upadhyay and others vs. State of Bihar and another, 2024 (INSC) 202 (SC)***, Hon'ble Supreme Court held as under:

*“It is thus obvious from the catena of decisions dealing with bail that even while clarifying that arrest should be the last option and it should be restricted to cases where arrest is imperative in the facts and circumstances of a case, the consistent view is that the grant of anticipatory bail shall be restricted to exceptional circumstances. In other words, the position is that the power to grant anticipatory bail under Section 438, Cr.P.C. is an exceptional power and should be exercised only in exceptional cases and not as a matter of course. Its object is to ensure that a person should not be harassed or humiliated in order to satisfy the grudge or personal vendetta of the complainant. (See the decision of this Court in *HDFC Bank Ltd. v. J.J.Mannan & Anr.* 2010 (1) SCC 679).*

*Further, it was clearly observed in para NO. 24 of the judgment (supra) that “**though in many cases it was held that bail is said to be a rule, it cannot, by any stretch of imagination, be said that anticipatory bail is the rule.** It cannot be the rule and the question of its grant should be left to the cautious and judicious discretion by the Court depending on the facts and circumstances of each case. While called upon to exercise the said power, the Court concerned has to be very cautious as the grant of interim protection or protection to the accused in serious cases may lead to miscarriage of justice and may hamper the investigation to a great*



extent as it may sometimes lead to tampering or distraction of the evidence. We shall not be understood to have held that the Court shall not pass an interim protection pending consideration of such application as the Section is destined to safeguard the freedom of an individual against unwarranted arrest and we say that such orders shall be passed in eminently fit cases. At any rate, when warrant of arrest or proclamation is issued, the applicant is not entitled to invoke the extraordinary power. Certainly, this will not deprive the power of the Court to grant pre-arrest bail in extreme, exceptional cases in the interest of justice. But then, person(s) continuously, defying orders and keep absconding is not entitled to such grant.”

7. In ***Sushila Aggarwal v. State (NCT of Delhi) (2018) 7 SCC 731***, the Constitution Bench reaffirmed that while considering applications for anticipatory bail, courts should consider factors such as the nature and gravity of the offences, the role attributed to the applicant, and the specific facts of the case.

8. The general rule, put tersely, may be of bail, no jail; however, a just exception may be taken where there are circumstances which might thwart the course of justice. The antecedents of the accused or the probability of the accused fleeing, intimidating witnesses or tampering with the evidence, *inter alia*, weigh in heavy before the Court when dealing with a petition for the grant of anticipatory bail.

9. In the present case *prima facie* serious allegations of sexual misconduct and exploitation of a minor have been levelled against the petitioner, which were reiterated by the victim in his statement recorded under Section 183 BNSS. The nature and gravity of the offence, coupled with the tender age and vulnerability of the victim, demand a thorough and fair investigation, which may warrant custodial interrogation of the petitioner. As such this Court is, at this stage, not inclined to grant the discretionary relief of anticipatory bail to petitioner in the present case.

Consequently, the present petition is dismissed.



11. However, nothing stated above shall be construed as a final expression of opinion on the merits of the case and the trial Court would proceed independently of the observations made in the present case which are only for the purpose of adjudicating the present bail petition.

12. Pending miscellaneous application(s), if any, also stands disposed of.

(KIRTI SINGH)
JUDGE

03.11.2025
Kavita

Whether speaking/reasoned: Yes/No
Whether Reportable: Yes/No