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IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

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CRM-M No.62917 of 2024
Date of decision: 20.01.2025

Badal Singh ... Petitioner
Vs.
State of Punjab ... Respondent

CORAM: HON'BLE MRS. JUSTICE MANISHA BATRA

Present:- Mr. Manjinder Singh Saini, Advocate,
for the petitioner.

Ms. Ruchika Sabherwal, Sr. DAG, Punjab,
for the respondent-State.

MANISHA BATRA, J. (Oral)

1. The present petition has been filed by the petitioner under Section 482 of the Bharatiya Nagarik Suraksha Sanhita, 2023 (For short “BNSS”) seeking anticipatory bail in the FIR mentioned below:-

FIR No.	Dated	Police Station	Sections
193	22.10.2024	Sadar Hoshiarpur, District Hoshiarpur	61 (2), 216, 318 (4), 336 (3), 337, 340 (2), 338 and 339 of the Bharatiya Nyaya Sanhita, 2023 (For short “BNS”)

2. As per the allegations, the co-accused Gurpreet Singh had been arrested and was in custody in case arising out of FIR No.48 dated 06.06.2024 registered under Sections 379 and 411 of IPC at Police Station Chabbewal, District Hoshiarpur. He was extended benefit of bail by the concerned Magistrate vide order dated 03.10.2024. In compliance

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of that order, personal and surety bonds to the tune of Rs.30,000/- were to be furnished for release of accused Gurpreet Singh on bail. One person while representing himself to be Bhupinder Kumar furnished surety bonds. He was identified by one Sukhjit Kumar and furnished revenue record showing himself to be owner of some agricultural land. On verifying the details of the said property, the Reader of the Court of concerned Magistrate found that the name of father of the surety did not match with the particulars disclosed in the bond. On further scrutiny of the record, it was revealed that the person who introduced himself as Bhupinder Kumar, had infact impersonated himself and his actual name was Vishal and was a habitual offender. He in connivance with the attesting witness Sukhjit Kumar (whose actual name was found to be Gursharan Singh) and identifier Manjit Singh had furnished bonds on the basis of forged and fabricated record. Even Manjit Singh had falsely represented him as a Lambardar by using fake Aadhar Card and Identity Card. The concerned Magistrate passed an order for registration of FIR and the same was accordingly registered. Investigation proceedings were initiated. Further investigation revealed, that it was the present petitioner who was the kingpin of the crime as it was he who issued a Jamabandi as produced in the Court by giving his mobile number. The call detail record of accused Gursharan Singh and the petitioner was also procured which showed their location in the Court Complex at the relevant time. It was also revealed that the present petitioner was involved in one more

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case of similar nature. The accused Vishal and Manjit were arrested. The accused Gursharan Singh managed to flee. The petitioner was nominated as such. Apprehending his arrest, he moved an application for grant of pre arrest bail which was dismissed by learned Sessions Judge, Hoshiarpur vide order dated 28.11.2024.

3. It is argued by learned counsel for the petitioner that he has been falsely implicated in this case. He was not named in the FIR. His complicity in the crime has not been established. No specific role has been attributed to him. He is ready to join the investigation. His custodial interrogation is not required. He has been nominated as an accused on the basis of disclosure of the co-accused which is not admissible in evidence. It is, therefore, urged that he deserves to be extended benefit of pre arrest bail.

4. Learned Senior Deputy Advocate General, Punjab has advance notice of the petition and submits that she is ready to argue the matter. It is stressed by her that there are serious and specific allegations against the petitioner. His custodial interrogation is required for thorough investigation in the matter. No exceptional and extraordinary circumstance for grant of anticipatory bail in his favour has been made out. Therefore, it is urged that the petition is liable to be dismissed.

5. I have heard learned counsel for the parties at considerable length and have gone through the record.

6. The petitioner in connivance with the co-accused is alleged to

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have facilitated preparation/fabrication of false record as to ownership of property in the form of a Jamabandi in the name of the co-accused Vishal who by impersonating himself and showing his name as Bhupinder Kumar, had furnished surety bonds in favour of co-accused Gurpreet Singh before the concerned Court. He is shown to have been identified by the remaining co-accused as Bhupinder Kumar. The complicity of the petitioner is shown to have been prima facie established on the basis of fact that he had obtained concerned Jamabandi by disclosing his phone number and on the basis of call detail record of co-accused Gursharan Singh and himself. For conducting thorough investigation in the matter, the custodial interrogation of the petitioner is must. It is well settled proposition of law that arrest is a part of procedure of the investigation to secure not only the presence of the accused but several other purposes. The powers of anticipatory bail are extra ordinary and the same are to be exercised sparingly in exceptional circumstances. The judicial discretion conferred upon the Court has to be properly exercised after application of mind as to the nature and gravity of the accusation, possibility of applicant's fleeing from justice and other factors to decide whether it is a fit case for grant of anticipatory bail as such grant to some extent interferes in the sphere of investigation of an offence. The Court has also to see that an order of anticipatory bail should not operate as an inroad in the normal legal procedure of criminal cases by the trial Court. The custodial interrogation of a suspected person is qualitatively more

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elicitation oriented than questioning a suspect who is well ensconced with a favourable order of anticipatory bail. The Court must be circumspect while exercising such power for grant of anticipatory bail and it should not be granted as a matter of rule and has to be granted only when the Court is convinced that exceptional circumstances exist to resort to that extra ordinary remedy. In the present case, no such exceptional circumstances warranting exercise of the powers for grant of anticipatory bail by this Court are existing. Keeping in view the gravity thereof, the role attributed to the petitioner, the likelihood of his influencing the course of investigation and also of tampering with the evidence, no ground has been made out for allowing the petition. As such, I am of the considered opinion that the petition does not deserve to be allowed. Accordingly, the same is dismissed.

7. It is, however, clarified that observations made hereinabove shall not be construed as an expression of opinion on the merits of the case.

20.01.2025
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(MANISHA BATRA)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes/No
Yes/No