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**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

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B. Rajiv Sinha

....Petitioner

V/s

State of Haryana

....Respondent

Date of decision: 13.11.2025**Date of uploading: 13.11.2025****CORAM: HON'BLE MR. JUSTICE SUMEET GOEL**

Present: Mr. A.K. Jain, Advocate for the petitioner.

Mr. Tarun Aggarwal, Additional Advocate General, Haryana.

Mr. P.R. Yadav, Advocate for

Mr. Jayant Yadav, Advocate for the respondent No.2.

SUMEET GOEL, J. (Oral)

1. The present petition is the second attempt under Section 482 of Bharatiya Nagarik Suraksha Sanhita, 2023 (hereinafter to be referred as 'the BNSS') for grant of pre-arrest/anticipatory bail to the petitioner in case bearing FIR No.3 dated 03.01.2022, registered for the offences punishable under Sections 406, 420, 120-B of the IPC at Police Station Rewari Sadar, District Rewari.

The petitioner had earlier applied for grant of pre-arrest/anticipatory bail before this Court which was dismissed vide order on 18.04.2022. The said order reads as under:-

“Vide order dated 4.3.2022, petitioner was granted interim anticipatory bail. He was directed to join investigation forthwith and the



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case was adjourned to 31.3.2022. Thereafter, when the case came up for hearing on 31.3.2022, on the request of learned counsel for petitioner, it was adjourned to 18.4.2022 (today) and interim order was directed to continue.

Mr. Girdhar, learned AAG Haryana points out that despite direction contained in order dated 4.3.2022, petitioner has not joined investigation.

Learned counsel for petitioner has requested for some further time.

A perusal of the bail petition and the documents attached prima facie points towards the petitioner's involvement and does not make out a case for bail. The impact of crime would also not justify bail. Any further discussions will likely prejudice the petitioner; this court refrains from doing so.

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

19. Petition dismissed. Interim orders are recalled with immediate effect. All pending applications, if any, are disposed of."

Thereafter, the present petition i.e. the second petition for grant of anticipatory/pre-arrest bail has been preferred by the petitioner on 10.11.2025.

2. The gravamen of the FIR in question reflects that on 01.12.2020, a Promissory Note was executed between the complainant and Mr. B. Rajiv Sinha, Director of M/s HY Tech Organic Farms LLP (petitioner herein) under which the complainant agreed to develop a mushroom cultivation unit on his land measuring 2000 sq. ft. situated at Ramgarh Bhagwanpur, Rewari. It has been further alleged that in pursuance of the said agreement, the complainant paid a total amount of ₹20,00,000 (Rupees Twenty Lakh only) by cheque to the aforesaid company. In return,

the representatives of the said company assured that the complainant that he



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would receive an amount of ₹83,333/- per month for a period of 72 months and that all the electricity and water charges would be borne by the said Company as per the terms of the Promissory Note. However, despite repeated assurances, the said Company failed to fulfill its commitments. The complainant has alleged that only about 50% of the project work was completed and subsequently all further work was abruptly stopped without any justification. As per the complainant, he had received only three monthly payments of ₹60,000/- each during March 2021 and May 2021. Thereafter, the complainant alleged that all the payments ceased without explanation which apparently showed that the the accused persons i.e. Mr. B. Rajiv Sinha (petitioner herein), Mr. Sidharth Sharma and Mr. Hiren Patel had a dishonest and fraudulent intention from the very beginning. It has been further alleged that the aforesaid accused deceitfully executed the Promissory Note to induce the complainant to part with a sum of ₹20 lakhs and have since misappropriated the said funds. The complainant has further alleged that despite repeated requests and reminders through phone calls, WhatsApp messages and emails, the accused persons made false assurances but subsequently refused to return the money. Based on these set of allegations, the instant FIR was registered.

3. Learned counsel for the petitioner has iterated that the FIR does not disclose any cognizable offence and the dispute, at best, is purely civil in nature arising from a contractual agreement dated 01.12.2020. Learned counsel has further iterated that the complainant himself has failed to perform his obligations under the agreement by not paying the balance



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amount of ₹10,00,000/- as per the franchise arrangement and hence no criminal intent can be attributed to the petitioner. Learned counsel has emphasized that the agreement contains an arbitration clause which provides for resolution of disputes through alternate dispute resolution mechanisms and, hence, the criminal proceedings initiated against the petitioner are misuse of the process of law in order to pressurize him. According to learned counsel, the petitioner has already filed an earlier anticipatory bail application (i.e. CRM-M-9082 of 2022) before this Court wherein interim protection has been afforded vide order dated 04.03.2022 but due to a *bona fide* misunderstanding, the petitioner could not join investigation leading to the dismissal of the said petition on 18.04.2022. It has been further argued that the present petition is not barred merely because it is the second one, as the petitioner is now ready to join the investigation. Learned counsel asserts that the petitioner has no intention of evading the process of law and undertakes to cooperate fully with the investigation. On the basis of the aforementioned submissions, the grant of the instant petition is entreated for.

4. *Per contra*, learned State counsel has opposed the grant of anticipatory bail to the petitioner by arguing that the present petition is not maintainable, as it constitutes a second petition for anticipatory bail, without there being any substantial change in circumstances, thereby failing both on procedural grounds and on merits. Learned State counsel has submitted that the first petition was dismissed vide detailed order on 18.04.2022 before this Court and neither any prayer was made nor was any liberty granted to the



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petitioner to file afresh with better particulars. Accordingly, the State counsel has argued that the instant petition deserves dismissal on this score alone. Learned State counsel, while opposing the plea in hand on merits, submits that the investigation has revealed that the petitioner and his associates fraudulently induced the complainant to invest money with dishonest intention from the very inception and thereafter misappropriated the entire amount without executing the project. According to learned State counsel, the funds transferred by the complainant were diverted and not utilized for the agreed purpose. Learned State counsel has further submitted that the custodial interrogation of the petitioner is essential to unearth the full extent of the fraud, to trace the money trail and to ascertain the role and involvement of other co-accused persons. Learned State counsel has pointed out that despite the interim protection earlier afforded to the petitioner, he did not join the investigation which reflects his non-cooperative and evasive conduct. On the strength of aforesaid submissions, the petitioner does not deserve the concession of anticipatory bail and it is prayed that the present petition deserves to be dismissed.

5. Learned counsel appearing for the complainant has vociferously opposed the prayer for grant of anticipatory bail to the petitioner by arguing that the petitioner has dishonest intention from the very inception. According to learned counsel, the petitioner never intended to perform the obligations under the agreement and merely used it as a device to induce the complainant to part with ₹20,00,000/-. Furthermore, after receiving the money, the petitioner stopped all the work, disconnected



communication and misappropriated the amount. Learned counsel has contended that the existence of a civil agreement or arbitration clause does not bar criminal prosecution where elements of fraud and cheating are evident and fraudulent intent is proved. Learned counsel has contended that the repeated non-cooperation of the petitioner with the investigation and the gravity of financial deceit involved, disentitled him from the discretionary relief of anticipatory bail.

6. I have heard the learned counsel for the rival parties and have gone through the available record of the case.

7. It would be apposite to refer herein to a judgment passed by this Court in a titled as ***Bhisham Singh vs. State of Haryana, 2024(3) RCR(Criminal) 65***, relevant whereof reads as under:-

“11. As an epilogue to the above rumination, the following principles emerge:

I Second/successive anticipatory bail petition(s) filed under Section 438 of Cr.P.C., 1973 is maintainable in law & hence such petition ought not to be rejected solely on the ground of maintainability thereof.

II Such second/successive anticipatory bail petition(s) is maintainable whether earlier petition was dismissed as withdrawn/dismissed as not pressed/dismissed for non-prosecution or earlier petition was dismissed on merits.

III For the second/successive anticipatory bail petition(s) to succeed, the petitioner/applicant shall be essentially/pertinently required to show substantial change in circumstances and showing of a mere superficial or ostensible change would not suffice.

IV No exhaustive guidelines can possibly be laid down as to what would constitute substantial change in circumstances as every case has its own unique facts/circumstance. Accordingly, this issue is best left to the judicial wisdom and discretion of the



Court dealing with such second/successive anticipatory bail petition(s).

V In case a Court chooses to grant second/successive anticipatory bail petition(s), cogent and lucid reasons are pertinently required to be recorded for granting such plea despite such a plea being second/successive petition(s). In other words, the cause for a Court having successfully countenanced/entertained such second/successive petition(s) ought to be readily and clearly decipherable from the said order passed.

VI Once a plea for anticipatory bail has been dismissed as withdrawn/dismissed as not pressed/dismissed for non-prosecution or dismissed on merits by the High Court, no second/successive anticipatory bail petition(s) shall be entertained by a Sessions Court.”

8. Indubitably, the first petition (for grant of anticipatory bail) preferred by the petitioner was dismissed by a Coordinate Bench of this Court on 18.04.2022 after considering the fact that the petitioner was afforded the concession of anticipatory bail on 04.03.2022 and despite repeated direction to join the investigation, he has failed to join the investigation which necessitated the Court to dismiss the said petition. Thereafter, in the instant petition i.e. second petition (for grant of anticipatory bail), the petitioner has reiterated the grounds previously taken (at the time of rejection of the first petition on 18.04.2022).

8.1 There is no substantial change *nay* any change in circumstances which may weigh, in favour of entertaining the instant second petition for anticipatory bail. *Ergo*, the instant petition deserves dismissal on this score alone. Moreover, the prolonged evasion of the petitioner from the process of law weighs heavily against the exercise of discretion in his favour under the



provisions governing anticipatory bail. Furthermore, the first petition was dismissed on 18.04.2022 and the instant petition has been preferred after a gap of more than 3½ years. It is evident that the petitioner has deliberately evaded the process of law for over 3½ years. The conduct of the petitioner in avoiding arrest for such a prolonged period without any reasonable cause must be considered while adjudicating this second petition. The process of justice is meant to treat every individual in a manner which is equitable and fairly. However; if the petitioner-accused chooses to employ irregular and convoluted tactics, including undue delay, strategically aimed at frustrating lawful proceedings/investigation, it tantamounts to an abuse of the process of justice. While liberty and dignity of an individual must be held high, however, no one can be permitted to subvert and cause devolution in the process of justice. Protracted absence, eluding the process of law and abrupt repetition of pleas for pre-arrest bail, in absence of convincing reason(s) is certainly not an act/behaviour which calls for sympathy/indulgence of the Court. The hiatus of more than 3½ years on part of the petitioner (herein) is inexplicable *nay* contumacious. Therefore, the conduct of the petitioner when examined in the backdrop of the nature/severity of allegations made against the petitioner, dis-entitles him for grant of anticipatory bail.

9. Furthermore, no fresh substantial change in circumstances has been brought forward which would indicate that the petitioner is entitled to maintain his second petition for grant of anticipatory bail. The material placed on record *prima facie* indicates that the complainant was induced to part with ₹20,00,000/- on specific assurances regarding project development



and monthly financial returns. It is not in dispute that after receiving the money, the petitioner failed to complete the project and made only a few payments before stopping all further communication. The allegations thus reveal dishonest inducement and subsequent misappropriation, attracting the ingredients of Sections 406 and 420 IPC. The plea that the dispute is purely civil in nature cannot be accepted at this stage. Further, the conduct of the petitioner does not inspire confidence as despite earlier interim protection granted by this Court vide CRM-M-9082 of 2022, the petitioner has failed to join the investigation which led to dismissal of his first anticipatory bail petition. In the considered opinion of this Court, the petitioner has thus misused the concession of interim protection and shown disregard for the process of law. The investigation is at a crucial stage and the custodial interrogation of the petitioner may be necessary to ascertain the flow of funds, recover documentary evidence and identify other persons involved. The grant of anticipatory bail in such circumstances would hamper effective investigation. It is well-settled that anticipatory bail is an extraordinary remedy which is to be granted only when the Court is satisfied that the applicant has acted *bona fide* and that no custodial interrogation is necessary. From the entire factual conspectus brought forward in the present petition, no fresh ground or circumstance is made out so as to enable the petitioner to file and maintain the second anticipatory bail petition.

10. In view of the prevenient ratiocination, it is ordained thus:

(i) The petition in hand is devoid of merits and is hereby dismissed.



- (ii) Any observations made and/or submissions noted hereinabove shall not have any effect on merits of the case and the investigating agency as also the trial Court shall proceed further, in accordance with law, without being influenced with this order.
- (iii) Pending application(s), if any, shall also stand disposed of.

(SUMEET GOEL)
JUDGE

November 13, 2025
Ajay

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