

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

2025:PHHC:159996



109

CRM-M-65035-2025

Dharampal

....Petitioner

V/s

State of Haryana

....Respondent

Date of decision: 18.11.2025

Date of uploading: 18.11.2025

CORAM: HON'BLE MR. JUSTICE SUMEET GOEL

Present: Mr. Sourabh Sheoran, Advocate for the petitioner.

Mr. Tarun Aggarwal, Addl. AG, Haryana.

SUMEET GOEL, J. (Oral)

1. Present petition has been filed 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.197 dated 05.11.2025, registered for the offences punishable under Sections 61, 318(2) of BNS, 2023, Section 34 of the National Medical Commission Act, 2019, Sections 3, 3(1), 4, 5, 6, 18 & 29 of the Pre-Natal Diagnostic Techniques (Regulation and Prevention of Misuse) Act, 1994 (Section 23 of PC & PNDT Act, 1994 added later on), at Police Station Nangal Chaudhri, District Mahendergarh.

2. The gravamen of the FIR in question is that on 31.10.2025, an informer provided information to the Chairman, District Appropriate Authority, PNDT, Narnaul regarding the operation of a sex-determination racket in the area of Nangal Chaudhary. Acting on the same, a team

Deputy CMO, Narnaul; and Anish Soni, Clerk, office of the Civil Surgeon, Narnaul, was constituted. A decoy patient, Smt. Neha, along with her caretaker Vikas, also consented to join the raiding team under the *Beti Bachao Beti Padhao* Scheme. In the FIR it has been alleged that the petitioner (herein) contacted caretaker Vikas on his mobile number 8901909915 from mobile number 9416602036 and demanded a sum of ₹50,000/- for conducting an illegal sex-determination test. The petitioner instructed the decoy patient to reach the Sirohi Bahali Toll at 11:45 PM on 04.11.2025. Accordingly, the raiding party, along with the persons reached the location at approximately 11:50 PM, where the petitioner was found waiting on a motorcycle bearing registration HR-35-T-0789. Thereafter, the petitioner accompanied the decoy patient and caretaker to an old house in village Kalba, where he again demanded ₹50,000/-. The caretaker handed over the amount to the petitioner. Thereafter, another co-accused namely Bhawani arrived on a motorcycle carrying a portable ultrasound machine and conducted the sex-determination test and then the caretaker alerted the raiding party. However, the petitioner managed to escape on his motorcycle. On the basis of these allegations, the instant FIR was registered against the petitioner.

3. Learned counsel for the petitioner submits that the petitioner is innocent and has been falsely implicated in the present case. It is contended that there is an unexplained delay of more than seven hours in the registration of the FIR. Counsel further submits that only the quack doctor, namely Bhawani, was apprehended from the spot, and that all proceedings relating to the alleged sex-determination test were conducted solely by said Bhawani. It is further argued that the prosecution's version is doubtful, as it is

improbable that a 63-year-old petitioner could have managed to flee from the spot. Learned counsel further asserts that the petitioner was not present at the time of occurrence and has been roped in merely on the basis of the disclosure statement made by co-accused Bhawani. Learned counsel asserts that in the instant case, the FIR fails to include material facts, which further raised questions about its credibility and fairness. Moreover, the custodial interrogation should not be used as a punitive measure and is justified only when absolutely necessary for the recovery of material evidence. Furthermore, nothing is to be recovered from the petitioner and he is ready to join the investigation and hence no useful purpose would be served by sending him behind the bars. It is lastly submitted by the learned counsel that the present petition be allowed and the petitioner be granted the concession of the anticipatory bail.

4. *Per contra*, the learned State Counsel opposed the grant of anticipatory bail to the petitioner by arguing that the offence is of a serious nature relating to pre-natal test. The investigation with respect to the petitioner is still ongoing and recovery of ₹50,000/- is to be made from the petitioner. Learned State counsel has iterated that the custodial interrogation of the petitioner is imperative for the purpose of effective and fair investigation and to unearth the case of the prosecution. According to learned State counsel, in case the petitioner is granted the concession of pre-arrest, at this stage, it may impede the ongoing investigation.

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

6. It would be apposite to refer herein to a judgment of the Hon'ble Supreme Court titled as ***Kishor Vishwasrao Patil vs. Deepak***

Yashwant Patil and another passed in **SLP(CrI) No.1125-2022**, relevant whereof reads as under:

“74. Ordinarily, arrest is a part of the process of the investigation intended to secure several purposes. There may be circumstances in which the accused may provide information leading to discovery of material facts and relevant information. Grant of anticipatory bail may hamper the investigation. Pre-arrest bail is to strike a balance between the individual's right to personal freedom and the right of the investigating agency to interrogate the accused as to the material so far collected and to collect more information which may lead to recovery of relevant information.

xxx	xxx	xxx	xxx
xxx	xxx	xxx	xxx

*75. Observing that the arrest is a part of the investigation intended to secure several purposes, in **Adri Dharan Das v. State of W.B. [Adri Dharan Das v. State of W.B., (2005) 4 SCC 303 : 2005 SCC (Cri) 933]** , it was held as under : (SCC p. 313, para 19)*

“19. Ordinarily, arrest is a part of the process of investigation intended to secure several purposes. The accused may have to be questioned in detail regarding various facets of motive, preparation, commission and aftermath of the crime and the connection of other persons, if any, in the crime. There may be circumstances in which the accused may provide information leading to discovery of material facts. It may be necessary to curtail his freedom in order to enable the investigation to proceed without hindrance and to protect witnesses and persons connected with the victim of the crime, to prevent his disappearance, to maintain law and order in the locality. For these or other reasons, arrest may become an inevitable part of the process of investigation. The legality of the proposed arrest cannot be gone into in an application under Section 438 of the Code. The role of the investigator is well defined and the jurisdictional scope of interference by the court in the process of investigation is limited. The court ordinarily will not interfere with the investigation of a crime or with the arrest of the accused in a cognizable offence. An interim order restraining arrest, if passed while dealing with an application under Section 438 of the Code will amount to interference in the investigation, which cannot, at any rate, be done under Section 438 of the Code.”

*76. In **Siddharam Satlingappa Mhetre v. State of Maharashtra [Siddharam Satlingappa Mhetre v. State of Maharashtra, (2011) 1 SCC 694 : (2011) 1 SCC (Cri) 514]**, the Supreme Court laid down the factors*

and parameters to be considered while dealing with anticipatory bail. It was held that the nature and the gravity of the accusation and the exact role of the accused must be properly comprehended before arrest is made and that the court must evaluate the available material against the accused very carefully. It was also held that the court should also consider whether the accu have been made only with the object of injuring or humiliating the applicant by arresting him or her.

77. After referring to Siddharam Satlingappa Mhetre [**Siddharam Satlingappa Mhetre v. State of Maharashtra, (2011) 1 SCC 694 : (2011) 1 SCC (Cri) 514**] and other judgments and observing that anticipatory bail can be granted only in exceptional circumstances, in Jai Prakash Singh v. State of Bihar [**Jai Prakash Singh v. State of Bihar, (2012) 4 SCC 379 : (2012) 2 SCC (Cri) 468**] , the Supreme Court held as under : (SCC p. 386, para 19)

*“19. Parameters for grant of anticipatory bail in a serious offence are required to be satisfied and further while granting such relief, the court must record the reasons therefor. Anticipatory bail can be granted only in exceptional circumstances where the court is prima facie of the view that the applicant has falsely been enroped in the crime and would not misuse his liberty. (See D.K. Ganesh Babu v. P.T. Manokaran [**D.K. Ganesh Babu v. P.T. Manokaran, (2007) 4 SCC 434 : (2007) 2 SCC (Cri) 345**] , State of Maharashtra v. Mohd. Sajid Husain Mohd. S. Husain [**State of Maharashtra v. Mohd. Sajid Husain Mohd. S. Husain, (2008) 1 SCC 213 : (2008) 1 SCC (Cri) 176**] and Union of India v. Padam Narain Aggarwal [**Union of India v. Padam Narain Aggarwal, (2008) 13 SCC 305 : (2009) 1 SCC (Cri) 1**].)”*

Economic offences

78. Power under Section 438 CrPC being an extraordinary remedy, has to be exercised sparingly; more so, in cases of economic offences. Economic offences stand as a different class as they affect the economic fabric of the society. In Directorate of Enforcement v. Ashok Kumar Jain [**Directorate of Enforcement v. Ashok Kumar Jain, (1998) 2 SCC 105 : 1998 SCC (Cri) 510**], it was held that in economic offences, the accused is not entitled to anticipatory bail.”

15. In Sushila Agrawal and others v. State (NCT of Delhi) and Another reported in (2020) 5 SCC 1, Constitution Bench of this Court held that while considering an application for grant of pre-arrest bail the Court has to consider the nature of the offence, the role of the person, the likelihood of his influencing the course of investigation, or tampering with evidence or likelihood of fleeing justice. The Court held:-

“92.4. Courts ought to be generally guided by considerations such as the nature and gravity of the offences, the role attributed to the applicant, and the facts of the case, while considering whether to grant anticipatory bail, or refuse it. Whether to grant or not is a matter of discretion; equally whether and if so, what kind of special conditions are to be imposed (or not imposed) are dependent on facts of the case, and subject to the discretion of the court.”

7. As per the allegations detailed in the FIR, serious charges stand levelled against the petitioner. As per the case set up by the prosecution the petitioner, along with his co-accused, was part of a gang engaged in conducting illegal pre-natal sex-determination tests. It is the specific case of the prosecution that the petitioner was present at the spot and had accepted an amount of ₹50,000/- from the caretaker of the decoy patient for facilitating the said illegal procedure. The petitioner has been categorically named in the FIR, attributing a direct and active role to him in the commission of the alleged offence.

No cause *nay* plausible cause has been shown, at this stage, from which it can be deciphered that the petitioner has been falsely implicated into the present FIR.

8. Furthermore, the investigation is still at a crucial stage, and custodial interrogation of the petitioner is considered necessary to unearth the complete facts and to ascertain involvement of any other persons connected with the case. The petitioner is yet to be arrested and grant of anticipatory bail, at this stage, may prejudice the ongoing investigation. The apprehension expressed by the prosecution that the petitioner, if released on bail, may abscond or attempt to influence witnesses also appears to be not without basis. Given the seriousness of the offence, the stage of investigation

is of the view that the petitioner does not deserve the concession of bail at this juncture. Moreover, in view of the serious allegations, the custodial interrogation of the petitioner is indispensable and crucial for unearthing the broader conspiracy and identifying the other accomplices that may be within the exclusive knowledge of the petitioner. Moreover, the grant of anticipatory bail at this premature stage may seriously prejudice the ongoing investigation and potentially result in tampering with evidence or influencing material witnesses.

9. It is befitting to mention here that while considering a plea for grant of anticipatory bail, the Court has to equilibrate between safeguarding individual rights and protecting societal interest(s). The Court ought to reckon with the magnitude and nature of the offence; the role attributed to the accused; the need for fair and free investigation as also the deeper and wide impact of such alleged iniquities on the society. It is imperative that every person in the Society can expect an atmosphere free from foreboding & fear of any transgression. At this stage, there is no material on record to hold that *prima facie* case is not made out against the petitioner. The material which has come on record and preliminary investigation, appear to be established a reasonable basis for the accusations. Thus, it is not appropriate to grant anticipatory bail to the petitioner, as it would necessarily cause impediment in effective investigation. In ***State v. Anil Sharma*** [***State v. Anil Sharma, (1997) 7 SCC 187 : 1997 SCC (Cri) 1039***], the Supreme Court held as under : (SCC p. 189, para 6)

“6. We find force in the submission of CBI that custodial interrogation is qualitatively more elicitation-oriented than questioning a suspect who is well-enconced with a favourable order under Section 438 of the Code. In a case like this, effective interrogation of a suspected person is of tremendous advantage in disinterring many useful informations and also materials which

would have been concealed. Success in such interrogation would elude if the suspected person knows that he is well protected and insulated by a pre-arrest bail order during the time he is interrogated. Very often interrogation in such a condition would reduce to a mere ritual. The argument that the custodial interrogation is fraught with the danger of the person being subjected to third-degree methods need not be countenanced, for, such an argument can be advanced by all accused in all criminal cases. The Court has to presume that responsible police officers would conduct themselves in a responsible manner and that those entrusted with the task of disinterring offences would not conduct themselves as offenders.”

10. In view of the gravity of the allegations and nature of offence, since the necessity of custodial interrogation would arise for a fair and thorough investigation, this Court is of the considered opinion that the petitioner does not deserve the concession of anticipatory bail in the factual matrix of the case in hand. Moreover, custodial interrogation of the petitioner is necessary for an effective investigation & to unravel the truth. The petition is, thus, devoid of merits and is hereby dismissed.

11. Nothing said hereinabove shall be deemed to be an expression of opinion upon merits of the case/investigation.

12. Pending application(s), if any, shall also stand disposed off.

(SUMEET GOEL)
JUDGE

November 18, 2025
Naveen

Whether speaking/reasoned: Yes/No

Whether reportable: Yes/No