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

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Sunil Kumar

...Petitioner

V/s

State of Haryana

...Respondent

Date of decision: 02.12.2025**Date of Uploading : 02.12.2025****CORAM: HON'BLE MR. JUSTICE SUMEET GOEL**

Present: Mr. Nirmal Singh, Advocate for the petitioner.

Mr. Tarun Aggarwal, Additional Advocate General, Haryana
(on the strength of advance notice).Mr. Pawan Kumar Hooda, Advocate for the complainant
(on his own volition).

SUMEET GOEL, J. (Oral)

1. Present petition has been filed on behalf of the petitioner seeking grant of anticipatory/pre-arrest bail under Sections 482 of Bharatiya Nagarik Suraksha Sanhita, 2023 (hereinafter to be referred as 'BNSS') in FIR No.243 dated 04.11.2025 registered for offences punishable under Sections 316(2), 318(4), 336(3), 337, 340(2), 61(2) of BNS at Police Station Panipat Sadar, District Panipat.

2. The essence of the FIR, as set-out in the petition, is that Vijay Kumar and Sanjay Katariya filed a complaint to the Superintendent of Police, Panipat alleging therein that four persons i.e. Gagandeep Sharma, Sunil Kumar (petitioner herein), Pankaj @ Bhagta, and Dharampal Singh had contacted them about a plot of land measuring 24 kanals 18 marla near Madhuban on GT Road. They claimed that the land belonged to Rajesh

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Kumar Kesari, who had given a GPA (General Power of Attorney) to his friend Virender Singh, authorizing him to sell the property. Thereafter, the complainants visited the land at village Kutail and agreed to proceed with the purchase. On 12.03.2025, the complainants met the aforesaid four persons along with a person introduced as Shahi Virender Singh, the alleged GPA holder. Thereafter, the said Virender Singh had made a phone call and the person on the other end introduced himself as Rajesh Kumar Kesari confirming that the GPA was genuine and asking them to transfer half the payment to his bank account and half to the account of Virender. A sale deal of Rs.12.11 crores was finalized i.e. 70% share by Sanjay Kataria and 30% by Vijay Kumar. Accordingly, the complainants paid Rs.65 lakh in cash and Rs.40 lakh by cheque to Rajesh Kumar Kesari. Furthermore, the complainants paid a sum of Rs. 40 lakh by cheque to Virender Singh. Later, two more cheques of Rs.17.5 lakh each were given to both Rajesh and Virender. Accordingly, an agreement to sell and receipt were executed at Tehsil Panipat with 15.09.2025 set as the last date for the sale deed. Virender also gave them an affidavit. On 15.09.2025, the complainants reached Tehsil Gharaunda for the sale deed but the accused did not turn up. They marked their presence before the Tehsildar. Later, they discovered that Rajesh Kumar Kesari had already cancelled the GPA on 19.07.2025 even though they were made to sign the agreement on 12.03.2025. In this way, the complainants realized that they had been cheated of Rs.1.80 crore by the accused. On these set of allegations, the instant FIR was got registered and investigation ensued.



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3. Learned counsel for the petitioner has iterated that the petitioner has been falsely implicated into the FIR in question and has not received even a single rupee from the complainants. Learned counsel has further iterated that the role of the petitioner is limited to that of a witness on the agreement to sell dated 12.03.2025. According to learned counsel, the entire consideration was received only by co-accused Rajesh Kumar Kesari (owner) and Virender Singh (GPA holder). Even as per the prosecution version, nothing is to be recovered from the petitioner and no incriminating material is attributed to him. Learned counsel has further submitted that the petitioner is not a beneficiary and the FIR itself is inconsistent and contradictory. It has been further argued that the name of the petitioner has been falsely roped into the instant case without any supporting evidence or proper investigation. The investigation is purely documentary in nature and all the relevant documents are already with the complainants/co-accused. Hence, there is no need for custodial interrogation of the petitioner. Moreover, there is no likelihood of the petitioner absconding from the process of justice in case he is enlarged on pre-arrest bail. On the strength of aforesaid submission, the grant of instant petition is entreated for.

4. *Per contra*, learned State counsel has vehemently opposed the grant of anticipatory bail to the petitioner by arguing that the allegations made against the petitioner are serious in nature. The investigation conducted so far reveals that the petitioner was not a mere witness but was actually part of the group that approached the complainants, showed them the land and facilitated the fraudulent transactions. His continuous presence establishes his participation and common intention with the other accused.



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Furthermore, the cancellation of the GPA was within the knowledge of the accused including the petitioner. Despite this, the accused intentionally executed the agreement dated 12.03.2025 and collected substantial amounts from the complainants. Considering the nature of allegations, the custodial interrogation of the petitioner is necessary to unearth the full conspiracy, identify the flow of money, verify the circumstances of the cash payment and determine the roles of each co-accused. He has emphasized that releasing the petitioner on bail at this crucial stage may hamper the ongoing investigation and potentially lead to tampering with evidence or influencing of witnesses. Accordingly, a prayer has been made for the dismissal of the instant petition in order to facilitate effective investigation into the alleged offence.

5. Learned counsel for the complainant has vociferously opposed the instant petition and has raised submissions in tandem with the learned State counsel.

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 of the Hon'ble Supreme Court titled as ***Kishor Vishwasrao Patil vs. Deepak Yashwant Patil and another*** passed in ***SLP(Crl) 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. 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-ensconced 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.

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 accusations 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 enroled 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.”

8. Indubitably, serious allegations have been levelled against the petitioner in the FIR. The allegations in the FIR *ibid* reflect that the petitioner was consistently present at each vital stage of the transaction. His presence when the land was shown, during negotiations and at the time of execution of the agreement, indicates that he acted in close coordination with the other accused. The plea of the petitioner that he was merely a witness to the agreement cannot be accepted at this stage, as the investigation is still in progress and his involvement is yet to be examined. The allegations pertain to an economic offence involving a substantial amount of Rs.1.80 crores. The stand of the State before this Court is that the custodial interrogation of the petitioner is indispensable for the purpose of effectively recovering the siphoned amount, to identify the real beneficiaries and the circumstances under which the complaints were induced. The nature

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and gravity of the offence, involving defrauding the complainant, necessitate a thorough investigation, which, at this stage, cannot be conducted without the petitioner being in custody. Moreover, no exceptional or compelling circumstance has been demonstrated which would warrant the grant of anticipatory bail in such a serious offence. The petitioner, in a calculated and fraudulent manner, induced the complainants from the very inception.

9. The investigation is at a crucial stage and the role of each accused including the petitioner requires thorough investigation. The mere fact that no amount was deposited in the account of the petitioner does not rule out the possibility of his active involvement in facilitating the offence. The grant of bail at this stage may impede the ongoing investigation and may also adversely affect the efforts of the investigating agency in unraveling the conspiracy. The argument that the dispute is purely documentary in nature cannot be accepted at this stage as where the dishonest intention exists at the very inception. The nature and gravity of the offence, the role attributed to the petitioner as also the factual matrix of the *lis* essentially lead to the unequivocal conclusion that the petitioner does not deserve the concession of anticipatory bail.

10. It is pertinent to mention here that the relief of anticipatory bail is aimed at ensuring personal liberty of an individual. However, while deciding a plea for grant of anticipatory bail, the Court has to strike a balance between safeguarding individual rights and protecting societal interest. The Court must also consider the gravity of the offence; the role attributed to the petitioner; the impact on the Society and the need for fair



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and free investigation. The relief must not unduly hamper the rights of the investigating agency to conduct free, fair and impartial investigation. 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, (1997) 7 SCC 187 : 1997 SCC (Cri) 1039***, the Hon'ble 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-ensconced 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.”

11. In view of the seriousness of the allegations, the nature of the offence and the active role attributed to the petitioner, it may not be possible for the investigating agency to unravel the entire truth if the petitioner is armed with a protective order. Moreover, it is the specific stand of the State that the custodial interrogation is necessary to take the investigation to its

logical end and to conclude fair and meaningful investigation.



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12. In view of the prevenient ratiocination, it is ordained thus:
- (i) The instant petition is devoid of merits and is hereby dismissed.
 - (ii) Nothing said hereinabove shall be deemed to be an expression of opinion upon merits of the case/investigation.
 - (iii) Pending application(s), if any, shall also stand disposed off.

(SUMEET GOEL)
JUDGE

December 02, 2025
Ajay

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