



2025:DHC:4192



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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

% **Date of decision: 20.05.2025**

+ BAIL APPLN. 2767/2024, CRL.M.A. 15666/2025

MALKIT SINGHPetitioner

Through: Mr. Shivam Vashisht, Adv.

versus

STATE OF NCT OF DELHIRespondent

Through: Mr. Satish Kumar, APP for
State.

SI Beena PS NIA.

CORAM:

HON'BLE MS. JUSTICE SHALINDER KAUR

SHALINDER KAUR, J (ORAL)

1. By way of the present petition under Section 482 of the Bhartiya Nagarik Suraksha Sanhita, 2023 (BNSS), the petitioner seeks the grant of Anticipatory Bail in FIR No.412/2024 dated 18.06.2024 for the offences punishable under Section 419 and 420 of the Indian Penal Code, 1860 (IPC) registered at Police Station India Gandhi International Airport.

2. As per the prosecution case, on 17.06.2024 at around 1600 hours, one Indian male passenger, namely Harbans Singh, arrived at the IGI Airport, Terminal 3, New Delhi, from London, United Kingdom, by flight No. UK-18. The said passenger was in possession of Emergency Certificate No. X0723068 and approached the immigration counter for arrival clearance. On scrutiny of his



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credentials and travel documents, it was found that his last departure from India could not be traced either in the Immigration Control System (ICS) or with the Central Foreigners Bureau (CFB). It was thus suspected that Harbans Singh had departed from India by impersonating another individual or by resorting to illegal means. Accordingly, ASI Mahajan requested that a case be registered against him under appropriate provisions of law.

3. Upon receipt of the complaint, annexed with (i) the original Emergency Certificate, (ii) a PRIDE copy of the EC, (iii) arrival/departure passenger logs and camera image from ICS, and (iv) CFB's reply indicating untraced departure, the duty officer at Police Station IGI Airport registered a case under Sections 419 and 420 of the IPC. A computerized copy of the FIR, the original complaint, and supporting documents were handed over to W/SI Beena (No. D-482) for investigation.

4. Co-accused Harbans Singh was arrested on 18.06.2024. During police custody, he made a disclosure statement wherein he disclosed that his journey abroad had been arranged by one Malkit Singh (petitioner). Harbans Singh stated that Malkit Singh had facilitated his travel from Amritsar to Belgium in or around 2006–2007, purportedly for a labour job, and that he eventually travelled to Moscow, Italy, and London. He further stated that, due to his mother's illness, he had approached immigration authorities in London for deportation, whereupon he was repatriated on the strength of the Emergency Certificate in question.



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5. On the basis of the said disclosure statement, the investigating agency sought police custody remand of Harbans Singh for the purpose of tracing the petitioner and his associates. Three days' police custody was granted by the learned Court. Thereafter, on 20.06.2024, the police team visited Kaithal, Haryana, in an attempt to locate the petitioner, but he was not found at his residence.

6. Consequently, a notice under Section 41-A of the CrPC was served upon Malkit Singh through his wife, Ms. Kashmir Kaur, directing him to join the investigation on 23.06.2024. As he failed to appear, a second notice was affixed outside his residence on 27.06.2024, requiring his appearance on 29.06.2024. Owing to his non-cooperative conduct, Non Bailable Warrants (NBW) were obtained against him on 06.07.2024. His application seeking cancellation of the said warrants was dismissed by the learned ASJ, Patiala House Courts, *vide* the Order dated 18.07.2024.

7. Apprehending his arrest in connection with the present FIR, Malkit Singh had earlier filed an Anticipatory Bail application bearing No. 959/2024 before the learned District and Sessions Judge, Patiala House Courts, New Delhi. The said application was dismissed by the Court of Ms. Aparna Swami, Ld. ASJ, on 22.07.2024. The petitioner, thereafter, approached this Court. Pursuant to directions issued by this Court, the petitioner joined investigation on 08.08.2024 and again on 28.10.2024. However, during both sessions, he denied all allegations, including having any association with one Ramesh of Amritsar or involvement in sending Harbans Singh abroad using unlawful means



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in exchange for ₹5.50 lakhs. He did, however, acknowledge that Harbans Singh is his maternal cousin.

8. The learned counsel for the petitioner submits that the petitioner has been falsely implicated in the present case and that he has no role attributed to him in the FIR. He contends that the petitioner has been named solely on the basis of a disclosure statement made by the co-accused Harbans Singh, which, in the absence of any independent corroboration, is not sufficient to justify his arrest or denial of Anticipatory Bail.

9. The learned counsel submits that the said disclosure is itself questionable, as it alleges that Harbans Singh was sent from Amritsar to Belgium by the petitioner during the years 2006–2007. The learned counsel submits that no direct flights existed between Amritsar and Belgium during the said period. Thus, it is submitted, renders the version put forth by the prosecution inherently doubtful.

10. The learned counsel further submits that the petitioner was acquitted in FIR No. 255/2006 registered under Sections 420, 406, and 506 IPC at PS Sunam, District Sangrur, Punjab, which was lodged by his real co-brother, Amrik Singh (Sandu). It is argued that the present case is motivated by that previous enmity and is an outcome of the petitioner's prior acquittal.

11. The learned counsel submits that the petitioner is not required for custodial interrogation, as nothing is to be recovered from him, and no recovery has been effected till date. Further, the learned counsel



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submits that the co-accused Harbans Singh has been granted bail by the learned Trial Court on 26.06.2024.

12. Opposing the grant of Anticipatory Bail, the learned APP for the State submits that the petitioner is a habitual offender and has previously been implicated in multiple similar kind of criminal cases involving cheating and criminal breach of trust, namely:

- FIR No. 255/2006 under Sections 406, 420, 506 IPC at PS Sunam, Sangrur, Punjab;
- FIR No. 279/2020 dated 28.05.2020 under Sections 406, 420 IPC at PS Pehwa, Kurukshetra, Haryana;
- FIR No. 441/2020 dated 12.08.2020 under Sections 406, 420 IPC at PS Pehwa, Kurukshetra, Haryana;
- FIR No. 9/2021 dated 25.03.2021 under Sections 406, 420, 506 IPC at PS Pehwa, Kurukshetra, Haryana.

13. The learned APP submits that the petitioner has not cooperated in the investigation and has not disclosed anything about the crime to the IO. To conclude, the learned APP submits that the Charge-Sheet has not been filed and keeping in view the antecedents of the petitioner, Anticipatory Bail not be granted at this stage.

14. Having heard the learned counsels for the parties and upon perusal of the record, it is observed that the investigation in the present case was initiated upon the arrival and subsequent arrest of co-accused Harbans Singh at IGI Airport, New Delhi. On scrutiny of his travel credentials, it was discovered that his departure from India was not traceable in the Immigration Control System or with the Central



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Foreigners Bureau, thereby raising suspicion of an unauthorised exit. Upon interrogation, Harbans Singh disclosed that his journey to Belgium had been arranged by the present petitioner in exchange for a consideration of ₹5,30,000/-, for the purpose of securing employment abroad.

15. In order to apprehend the petitioner, who was suspected to be a travel agent operating through unlawful channels, the Investigating Agency obtained police custody remand of Harbans Singh. Pursuant to his disclosure, the police team visited the petitioner's address; however, he could not be located at the given premises. Despite service of notice under Section 41-A CrPC on two occasions, first through his wife on 23.06.2024 and subsequently by affixation on 27.06.2024, the petitioner failed to join the investigation.

16. In light of his evasive conduct, Non-Bailable Warrants were issued against him *vide* the Order dated 06.07.2024. The petitioner's application seeking cancellation of the said warrants was dismissed by the learned ASJ on 18.07.2024. It is further noted that, even after being directed by this Court to join the investigation, the petitioner appeared on two occasions but did not cooperate with the Investigating Officer and denied all allegations without offering any substantive explanation or assistance to the investigation.

17. The position of law is well settled that the power to grant anticipatory bail under Section 482 of the BNSS is an exceptional power and should be exercised only in exceptional cases. At any date, when warrant of arrest is issued and the applicant is continuously



defying the orders and keep absconded, in such circumstances, the Court is cautious to invoke the extraordinary power to grant pre-arrest bail.

18. In the present case, the conduct of the petitioner, in not making himself available for interrogation at the relevant stage and persistently evading investigative efforts, *prima facie* reflects a non-cooperative and obstructive attitude.

19. It is also not without significance that the petitioner has been previously involved in four other criminal cases. His antecedents, viewed cumulatively with his conduct in the present case, support the apprehension of the Investigating Agency that he may continue to evade investigation or influence the course of proceedings if granted the relief of anticipatory bail.

20. The grant of anticipatory bail is a discretionary relief, to be exercised with circumspection, particularly in cases where the accused has demonstrably failed to cooperate with the investigative process. The petitioner's continued evasiveness, lack of cooperation, and history of involvement in similar offences disentitle him to such relief at this stage.

21. Accordingly, this Court finds no merit in the present petition. The application seeking Anticipatory Bail is, therefore, dismissed.

SHALINDER KAUR, J

MAY 20, 2025/FRK

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