



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

222

CRM-M-6565-2026

Date of decision: 29.05.2026

Mohd. Shokeen

...Petitioner

Versus

State of Haryana

...Respondent

CORAM: HON'BLE MS. JUSTICE AARADHNA SAWHNEY

Present : Mr. Kunal Jindia, Advocate and
Mr. Vicky Sharma, Advocate for the petitioner.

Mr. Birender Bikram Attrey, Addl. A.G., Haryana.

Ms. Gauri Swaroop Bansal, Advocate
for the complainant.

AARADHNA SAWHNEY, J.(ORAL)

1. Petitioner, an accused in case bearing FIR No.26 dated 28.05.2021 registered against him at Police Station Women, District Palwal, for the commission of offences punishable u/s 376-D, 328, 506, 201 IPC, Section 6 of POCSO Act, 2012 and Section 67 of IT Act, 2000, has prayed for grant of pre-arrest bail.

2. Facts necessary for disposal of this petition have been taken from para 3 of the Status report dated 13.02.2026 filed by way of affidavit of Ms. Mamta Kharab, HPS, Additional Superintendent of Police, Palwal. The same is reproduced as under:-

i. That on 28.05.2021, the complainant moved a written complainant at the police station (women) Palwal, the relevant portion of the complaint is mentioned follows:

"I, "S" daughter of Mustufa and wife of Rafiq Khan, resident of village Malai, Tehsil Hathin, District Palwal, respectfully submit that I am residing at the above-mentioned address. I state that I or my mother Islammi has been residing permanently in village Malai and doing tailoring work. In the



month of May 2019, the mother of accused Ikram had given some clothes to my mother for stitching, and after 2-3 days, after stitching the said clothes, I went to the house of accused Ikram to return those clothes. At that time, no other person was present in the house of accused Ikram and only accused Ikram was present. When I asked accused Ikram as to where his mother had gone, accused Ikram said that she would be coming shortly and asked me to sit and take tailoring money. On this, I sat there. After some time, accused Ikram gave me a cold drink to drink. I refused to drink it, but after accused Ikram insisted a lot, I drank the cold drink. After drinking it, I started feeling dizzy, then I asked Ikram what he had given me to drink due to which I started feeling dizzy. On this, accused Ikram said that I should go and lie down in their room for some time and that he would call my mother. After some time, I became unconscious, and when I regained consciousness, I found myself in a half-naked condition and at that time I was feeling severe pain in my body, and at that time accused Imtiaz Ali and Shokin were also present there. Seeing my condition and the accused persons, I started crying and said that I would complain about the above three accused to my parents and would inform them about this incident and lodge a police report. On this, accused Ikram showed me some obscene photographs of mine on his mobile phone, which the accused persons had taken by conspiring among themselves by taking undue advantage of my condition, and after showing those photographs, threatened to upload them on the internet. Due to fear, I did not tell anyone about the above incident, and thereafter the above three accused continued to illegally exploit me on the basis of those obscene photographs and on several occasions committed rape upon me. Thereafter, my parents got me married on 07.03.2020 with Rafiq Khan son of Mohammad Isha, resident of village Kotla, Tehsil and District Nuh, but even after marriage, the accused persons continued to harass me on the basis of those obscene photographs and started blackmailing me. I told the accused persons many times that now I am married and they should not



harass me and should delete those obscene photographs, but the accused persons did not desist from their acts and even came to my matrimonial home and gave various kinds of threats. Finally, being distressed, I came and informed my parents and in-laws about the entire incident. Thereafter, on 13.05.2021, the accused persons uploaded some obscene photographs of mine on a WhatsApp group through mobile number 7027160518. Due to the above incident, the accused persons mentally and physically exploited me and tarnished my dignity, and against my will, all the three accused made me to drink intoxicating substance and committed rape upon me and uploaded my obscene photographs on a WhatsApp group and defamed me. Therefore, it is prayed that a case be registered against the above accused persons and strict legal action be taken against them and the accused persons be punished. I shall be highly obliged."

On the above mentioned complaint FIR No. 26 dated 28.05.2021 under Sections 376D, 506, 328 IPC & Section 6 POCSO Act, Section 67 IT Act, was registered at the Women Police Station Palwal."

During the course of investigation, medical examination of Victim Girl 'S' was got conducted from Govt. Hospital, Palwal on 28.05.2021. On the following day i.e. on 29.05.2021, her statement u/s 164 Cr.P.C. was recorded by learned Magistrate.

One mobile phone (make VIVO) was handed by the brother of the Victim Girl 'S' and her 11 obscene photographs were extracted from the said phone. Both of which were taken into possession through separate memos.

On 06.08.2021, Imtiaz Ali, son of Aamin, resident of Malai, Police Station Utawad, District Palwal was arrested, who during the course of interrogation confessed to his involvement in the commission of offence



and demarcated the place of occurrence. According to him, the mobile phone through which he had made certain obscene photographs of Victim Girl 'S' had been thrown by him near a canal in his in-laws' village. Accordingly, Section 201 IPC was added. Present petitioner and co-accused Ikram, who were named specifically in the FIR could not be arrested. On culmination of investigation qua co-accused Imtiaz Ali, challan complete in all respects was filed in the Court on 28.09.2021.

Since in the statement of the Victim Girl 'S' name of one Asim also cropped up, enquiry was conducted by the police officials from the brother of the Victim as also from the co-villagers, who all stated that no person by the said name resided in the village and that due to some misunderstanding his name (Asim's) appeared in the statement, whereas actually only 03 namely Imtiaz Ali, Ikram and Mohd. Shokeen i.e. the present petitioner, were involved in the incident.

Ikram and Mohd. Shokeen (P) could not be arrested despite best efforts made by the police. Hence were declared as 'Proclaimed Offenders' on 05.01.2023, PO challan against them was prepared and presented in the Court on 18.03.2023.

On receipt of DNA report, supplementary challan dated 19.09.2023 was submitted. Admittedly, co-accused Imtiaz Ali, who had been arrested and who faced trial was acquitted by the then learned trial Court vide order dated 16.02.2024.

Co-accused Ikram was arrested on 24.07.2024, faced trial and was acquitted vide order dated 04.04.2025.

As noted hereinabove, co-accused Mohd. Shokeen i.e. present petitioner was declared 'Proclaimed Offender' on 05.01.2023. Insofar as the role of the present petitioner is concerned, as per Victim Girl 'S', after she



regained consciousness at the house of Ikram, she noticed present petitioner Mohd. Shokeen along with Imtiaz Ali, when she was in semi naked condition and was in acute pain. She alleged that the present petitioner along with other co-accused in conspiracy with each other took undue advantage of her condition, clicked obscene photographs of hers. Later threatened her to upload the same on the social media due to which she remained silent. They all continued to illegally exploit her and violated her person on several occasions, as also blackmailed and harassed her even after she got married. Worst, they uploaded her obscene photographs on a 'Whatsapp' group.

3. Apprehending his arrest, petitioner moved an application for grant of anticipatory bail before the learned Additional Sessions Judge-cum-Special Court, POCSO at Palwal. The same came to be dismissed vide order dated 23.12.2025. Aggrieved of which, the present petition has been filed.

4. Learned counsel for the petitioner contends that petitioner has been falsely implicated in the present case. Three fold submissions have been raised by him. Firstly that the order dated 05.01.2023 passed by the then learned trial Court vide which petitioner was declared 'Proclaimed Offender' in the present case has since been set aside by this Court vide order dated 20.09.2024 passed in CRM-M-47292 of 2024 and that now he (P) is willing to join the investigation.

Secondly, the falsity of the case set up against the petitioner and 2 other co-accused is apparent from the fact that both of them i.e. Imtiaz Ali and Ikram, who faced trials were acquitted by the learned trial Court vide judgments dated 16.02.2024 and 04.04.2025, respectively. There is no iota of evidence/incriminating material against the present petitioner. In fact, complainant-Victim girl 'S', when appeared in the witness box, in the trial faced by co-accused Ikram, totally resiled from her initial statements given



to the police authorities and deposed that no such incident as alleged by her in her statement given to police authorities ever occurred.

Thirdly, insofar as the present petitioner is concerned, Victim also gave an affidavit deposing therein that the present petitioner has no concern with the incident and that his name was mentioned in her statement recorded u/s 164 Cr.P.C. only due to some mistaken impression. It is thus evident that the original complaint itself is devoid of merit and that only due to prior enmity the name of petitioner was unnecessarily dragged in, in the present case.

Thus, on the basis of aforesaid submissions learned counsel contends that though in the factual scenario of the case as mentioned hereinabove, the custodial interrogation of petitioner is not required but nonetheless he is willing to join the investigation as and when called for by the IO. He (P) being a person of clean past antecedents and being permanent resident of Village Malai, Tehsil Hathin, District Palwal, there is no apprehension of him absconding/fleeing from the process of justice or tampering with the witnesses etc., thus prayer for taking a lenient view in his favour has been made. Primarily on these grounds, it has been prayed to extend the concession of pre-arrest bail to the petitioner.

5. *Per contra*, while opposing the request for grant of pre-arrest bail, learned State counsel contends that from the conduct of petitioner who had been absconding for almost 3 ½ years, it is apparent that he is taking the law of the land very casually. Acquittal of co-accused, further as per learned State counsel cannot be taken note of, for granting petitioner the concession of anticipatory bail, when he had been specifically named by the Victim girl 'S' in her first statement given to the police authorities as also in her statement u/s 164 Cr.P.C. (now Section 183 BNSS) given before learned



Magistrate.

It is further the submission of learned State counsel that petitioner cannot be allowed to take advantage of judgments of acquittal passed in favour of the other two accused as at the said point in time, the learned trial Court was analyzing the roles of the said accused facing trial. Dismissal of the petition has been prayed for by further submitting that if allowed the relief sought for, the same would tantamount to sending wrong signal to society and giving premium to the absconders who have been evading the process of law.

6. I have heard the learned counsel for the parties and gone through the documents on record.

7. Before expressing any opinion on the merits of the rival contentions raised by learned counsel for the parties, it would be appropriate to refer to certain relevant judgments of Hon'ble Supreme Court, wherein the factors to be kept in mind while dealing with an application for grant of anticipatory bail, have been discussed.

Hon'ble Supreme Court in "***Gurbaksh Singh Sibbia V. State of Punjab***", ((1980) 2 SCC 5) held as under:-

"29. In Gurcharan Sing v. State (Delhi Admn.) (1978) 1 SCC 118 it was observed by Goswami, J., who spoke for the Court, that "there cannot be an inexorable formula in the matter of granting bail. The facts and circumstances of each case will govern the exercise of judicial discretion in granting or cancelling bail".

30. In American Jurisprudence (2d, Vol. 8, page 806, para 39) it is stated :

"Where the granting of bail lies within the discretion of the court, the granting or denial is regulated, to a large extent, by the facts and circumstances of each particular case. Since the object of the detention or imprisonment of the accused is



to secure his appearance and submission to the jurisdiction and the judgment of the court, the primary inquiry is whether a recognizance or bond would effect that end.”

It is thus clear that the question whether to grant bail or not depends for its answer upon a variety of circumstances, the cumulative effect of which must enter into the judicial verdict. Any one single circumstance cannot be treated as of universal validity or as necessarily justifying the grant or refusal of bail.

*31. In regard to anticipatory bail if the proposed accusation appears to stem not from motives of furthering the ends of justice but from some ulterior motive, the object being to injure and humiliate the applicant by having him arrested, a direction for the release of the applicant on bail in the event of his arrest would generally be made. On the other hand, if it appears likely, considering the antecedents of the applicant, that taking advantage of the order of anticipatory bail he will flee from justice, such an order would not be made. But the converse of these propositions is not necessarily true. That is to say, it cannot be laid down as an inexorable rule that anticipatory bail cannot be granted unless the proposed accusation appears to be actuated by mala fides; and equally, that anticipatory bail must be granted if there is no fear that the applicant will abscond. There are several other considerations, too numerous to enumerate, the combined effect of which must weigh with the court while granting or rejecting anticipatory bail. The nature and seriousness of the proposed charges, the context of the events likely to lead to the making of the charges, a reasonable possibility of the applicant's presence not being secured at the trial, a reasonable apprehension that witnesses will be tampered with and "the larger interests of the public or the State" are some of the considerations which the court has to keep in mind while deciding an application for anticipatory bail. The relevance of these considerations was pointed out in **State v. Captain Jagjit Singh, (1962) 3 SCR 622** which, though, was a case under the old Section 498 which corresponds to the present Section 439 of the Code. It is of*



paramount consideration to remember that the freedom of the individual is as necessary for the survival of the society as it is for the egoistic purposes of the individual. A person seeking anticipatory bail is still a free man entitled to the presumption of innocence. He is willing to submit to restraints on his freedom, by the acceptance of conditions which the court may think fit to impose, in consideration of the assurance that if arrested, he shall be enlarged on bail.”

Further, in ***Prasanta Kumar Sarkar vs. Ashis Chatterjee and another reported in (2010) 14 SCC 496***, the principles governing the grant of anticipatory bail were summarized hereinbelow:-

"9.[...] It is trite that this Court does not, normally, interfere with an order passed by the High Court granting or rejecting bail to the accused. However, it is equally incumbent upon the High Court to exercise its discretion judiciously, cautiously and strictly in compliance with the basic principles laid down in a plethora of decisions of this Court on the point. It is well settled that, among other circumstances, the factors to be borne in mind while considering an application for bail are:

- (i) whether there is any prima facie or reasonable ground to believe that the accused had committed the offence;*
- (ii) nature and gravity of the accusation;*
- (iii) severity of the punishment in the event of conviction;*
- (iv) danger of the accused absconding or fleeing, if released on bail;*
- (v) character, behaviour, means, position and standing of the accused;*
- (vi) likelihood of the offence being repeated;*
- (vii) reasonable apprehension of the witnesses being influenced; and*
- (viii) danger, of course, of justice being thwarted by grant of bail.”*

In the case of ***Sushila Aggarwal and others vs. State (NCT of Delhi) and another, reported in (2020) 5 SCC 1***, the Hon’ble Supreme Court held as under:-

*“92.1. Consistent with the judgment in ***Shri Gurbaksh Singh Sibbia and others v. State of Punjab***, when a person complains of apprehension of arrest and approaches for order, the application should be based on concrete facts (and not vague*



or general allegations) relatable to one or other specific offence. The application seeking anticipatory bail should contain bare essential facts relating to the offence, and why the applicant reasonably apprehends arrest, as well as his side of the story. These are essential for the court which should consider his application, to evaluate the threat or apprehension, its gravity or seriousness and the appropriateness of any condition that may have to be imposed. It is not essential that an application should be moved only after an FIR is filed; it can be moved earlier, so long as the facts are clear and there is reasonable basis for apprehending arrest.

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92.3. Nothing in Section 438 Cr. PC, compels or obliges courts to impose conditions limiting relief in terms of time, or upon filing of FIR, or recording of statement of any witness, by the police, during investigation or inquiry, etc. While considering an application (for grant of anticipatory 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 (including intimidating witnesses), likelihood of fleeing justice (such as leaving the country), etc. The courts would be justified – and ought to impose conditions spelt out in Section 437 (3), Cr. PC [by virtue of Section 438 (2)]. The need to impose other restrictive conditions, would have to be judged on a case by case basis, and depending upon the materials produced by the state or the investigating agency. Such special or other restrictive conditions may be imposed if the case or cases warrant, but should not be imposed in a routine manner, in all cases. Likewise, conditions which limit the grant of anticipatory bail may be granted, if they are required in the facts of any case or cases; however, such limiting conditions may not be invariably imposed.

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.

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92.6. An order of anticipatory bail should not be “blanket” in the sense that it should not enable the accused to commit further offences and claim relief of indefinite protection from arrest. It should be confined to the offence or incident, for which apprehension of arrest is sought, in relation to a specific incident. It cannot operate in respect of a future incident that involves commission of an offence.

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92.9. It is open to the police or the investigating agency to move the court concerned, which grants anticipatory bail, for a direction under Section 439 (2) to arrest the accused, in the event of violation of any term, such as absconding, non cooperating during investigation, evasion, intimidation or inducement to witnesses with a view to influence outcome of the investigation or trial, etc.”

Hon’ble the Supreme Court while deciding the case titled as **“Ms. X Vs. The State of Maharashtra and another”, (2023 SCC Online SC 279)** held as under:-

“11.1. We propose to take a quick look at the considerations that ought to govern grant of anticipatory bail. There are a line of decisions of this court that have underscored the fact that while deciding an application for bail, the court ought to refrain from undertaking a detailed analysis of the evidence, the focus being on the prima facie issues including consideration of some reasonable grounds that would go to show if the accused has committed the offence or those facts that would reflect on the seriousness of the offence. The self-imposed restraint on delving deep into the analysis of the evidence at that stage is for valid reasons, namely, to prevent any prejudice to the case set up by the prosecution or the defence likely to be taken by the accused and to keep all aspects of the matter open till the trial is concluded.



8. Keeping in view the above settled proposition of law in mind, let us revert back to the facts of the case in hand, which have already been summarized in para 2 of the order. Petitioner was specifically named by the Victim Girl 'S' in her statement given to the police authorities, role played by him also highlighted by her. She reiterated her stand in her statement recorded u/s 164 Cr.P.C. Immediately after the lodging of the FIR in May 2021, present petitioner evaded arrest and had been absconding from the said day. Thus, it is clear that he did not cooperate with the investigation and his conduct has been highly questionable. During this period, he was declared '*Proclaimed Offender*' on 05.01.2023 as despite the best efforts made by the police authorities he could not be arrested. Petitioner assailed the said order (dated 05.01.2023) vide which he was declared Proclaimed Offender by the learned trial Court, before this Court in CRM-M-47292 of 2024. Admittedly, the same has been set aside on technical grounds by this Court vide order dated 20.09.2024. For reasons best known to petitioner, one year and three months later i.e. on 19.12.2025, he moved an application for grant of anticipatory bail before the learned trial Judge, which as noticed above was dismissed vide order dated 23.12.2025. From his conduct, it is quite apparent and crystal clear that he has least respect for the law of the land and as has been rightly pointed out by learned State counsel, has been taking the law quite lightly/casually. Setting aside of the PO order on technical grounds, cannot be a ground to seek the concession of this extraordinary relief of pre-arrest bail. Moreso, when he is involved in a serious and grave offence of rape. At this stage, it would also be appropriate to refer to judgment of Hon'ble Supreme Court wherein case titled as ***Vipan Kumar Dhir vs. State of Punjab and another, (2021) 15 SCC 518***, it was held as under:-



“14. Even if there was any procedural irregularity in declaring the respondent-accused as an absconder, that by itself was not a justifiable ground to grant prearrest bail in a case of grave offence save where the High Court on perusal of case diary and other material on record is, prima facie, satisfied that it is a case of false or over exaggerated accusation. Such being not the case here, the High Court went on a wrong premise in granting anticipatory bail to the respondent-accused.”

The other submission raised by learned counsel for the petitioner that since the other two accused, who were named along with the present petitioner in the FIR have been acquitted, on grounds of parity, lenient view deserves to be taken in his favour, the same has also not found favour with this Court, for the reason that the other two accused faced trial and did not evade the arrest. Present petitioner did not surrender before the police authorities, they were not able to apprehend him.

This Court is in consonance with the submissions advanced by learned State counsel that the acquisitions against the present petitioner have not been tried. While passing the judgments of acquittal in favour of co-accused Imtiaz Ali and Ikram (dated 16.02.2024 and 04.04.2025, respectively), the Courts were analyzing the role played by the said accused and not by present petitioner.

It would be apposite to refer to judgment of Kerala High Court wherein case titled as ***Moosa vs. Sub Inspector of Police, reported in 2005 SCC Online Ker 605***, it was held as under:-

“53. [...] In the light of the above discussions, we may summarise the legal position as follows:

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(v) In a trial against the co-accused the prosecution is not called upon, nor is it expected to adduce evidence against the absconding co-accused. In such trial the prosecution cannot be



held to have the opportunity or obligation to adduce all evidence against the absconding co-accused. The fact that the testimony of a witness was not accepted or acted upon in the trial against the co-accused is no reason to assume that he shall not tender incriminating evidence or that his evidence will not be accepted in such later trial.

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(viii) While considering the prayer for invocation of the extraordinary inherent jurisdiction to serve the ends of justice, it is perfectly permissible for the court to consider the bona fides the cleanliness of the hands of the seeker. If he is a fugitive from justice having absconded or jumped bail without sufficient reason or having waited for manipulation of hostility of witnesses, such improper conduct would certainly be a justifiable reason for the court to refuse to invoke its powers under S. 482 of the Code of Criminal Procedure.

(ix) The fact that the co-accused have secured acquittal in the trial against them in the absence of absconding co-accused cannot by itself be reckoned as a relevant circumstance while considering invocation of the powers under S. 482 of the Code of Criminal Procedure. [...]"

Thus, in view of the detailed discussion made hereinabove, petitioner has failed to make out a case of exceptional depravity/hardship in his favour, entitling him for the grant of this extra ordinary relief of pre-arrest bail.

9. The petition being devoid of merit, is hereby dismissed.

(AARADHNA SAWHNEY)
JUDGE

29.05.2026

Hemant

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