

2026:PHHC:049558



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IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M-8055-2026

Surander Kumar

....Petitioner

versus

State of Haryana

....Respondent

Date of Decision: March 30, 2026

Date of Uploading: April 01, 2026

CORAM: HON'BLE MR. JUSTICE SUMEET GOEL

Present: Mr. A.P.S. Deol, Senior Advocate with
Mr. Vishal R. Lamba, Advocate for the petitioner.

Mr. Gurmeet Singh, AAG Haryana.

Mr. Vishal Yadav, Advocate for the complainant.

SUMEET GOEL, J. (Oral)

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.07 dated 12.01.2026, registered for the offences punishable under Sections
316(2), 318(4), 61(2) of the BNS, 2023, at Police Station Dharuhera, District
Rewari.

2. The gravamen of allegations against the petitioner is that the
petitioner has been alleged that he, in connivance with his accomplices, duped
the complainant of an amount of ₹1,27,00,000/- by extending false assurances
regarding the sale of land and by adopting fraudulent means to extract the said

amount. It is further alleged that the petitioner received a total sum of ₹58,00,000/-, out of which ₹30,00,000/- was obtained directly from the complainant and ₹28,00,000/- was received from co-accused – Parkash Saini. Out of the said amount, the petitioner is alleged to have transferred ₹9,00,000/- into the bank account of his wife and withdrawn ₹19,00,000/- in cash, thereby indicating his active involvement in the misappropriation of the cheated funds.

3. Learned senior counsel for the petitioner has iterated that bare perusal of the FIR itself shows that allegations leveled against the petitioner are concocted, improbable and devoid of any merit. Learned senior counsel has further iterated that the petitioner has been falsely implicated into the FIR in question. Learned senior counsel has argued that the complainant has not leveled any allegation of cheating/ misappropriation against the petitioner in the original complaint, which forms basis of the FIR in question, whereas, the main allegation has been leveled against Parkash Saini. Learned senior counsel has further argued that the petitioner, through his wife had also contributed an amount of Rs.19 lakhs, as part payment (earnest money) being 25/100 share holder, therefore, instead of posing the petitioner as co-complainant, he has been placed in column of accused, without there being any allegations against him. Learned senior counsel has asserted that Parkash Saini had failed to execute the sale deed of the land in question, and even, it is transpired that the said land was not free from encumbrances and stay was operating, thus, it is the Parkash Saini, who cheated the complainant along with the petitioner. Learned senior counsel has further asserted that at the

most, the dispute is of civil nature having commercial transactions, but the same has been given a criminal colour.

3.1. Learned counsel asserts that the police have not conducted a fair and impartial investigation and the inquiry conducted so far is not only incomplete but also tainted with bias. 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. Learned counsel has argued that nothing is to be recovered from the petitioner. Furthermore, the petitioner is ready to join the investigation and hence no useful purpose would be served by sending him behind the bars. On the aforesaid submissions, the grant of anticipatory bail is entreated for.

4. *Per contra*, learned State counsel has opposed the grant of anticipatory bail to the petitioner by arguing that the offence committed by the petitioner is serious in nature. Raising submissions in tandem with status report by way of an affidavit dated 20.02.2026, filed by the State, learned State counsel has submitted that the petitioner along with his co-accused has duped the complainant to a substantial amount. Relevant of the said reply reads thus:

- “5. *The allegations levelled against the petitioner is that he along with co-accused persons, after having entering into a criminal conspiracy with each other, committed cheating with the complainant and they duped the complainant of Rs.1,27,00,000/- by giving false assurances of selling the land and by adopting fraudulent means extracted the above said amount. Further, petitioner had received an amount of Rs.58,00,000/- in total, out of which, Rs.30,00,000/- was taken from the complainant and Rs.28,00,000/- was taken from co-accused – Parkash Saini, out of which, he got transferred an amount of Rs.9,00,000/- in the bank account of his wife and he withdrew Rs.19,00,000/- as cash. Thus, the said amount is to be recovered from him and hence, custodial interrogation of petitioner is required, hence petitioner is not entitled for grant of concession of anticipatory bail.*
6. *That the custody of petitioner is required for the purpose of recovery of amount of Rs.58,00,000/- from the petitioner and his custodial interrogation is required in order to get recovery of the said amount.*

Further, the petitioner is also required to be interrogated, so as to know the fact of involvement of other co-accused persons in the present offence and if the petitioner is released on anticipatory bail, then he would not cooperate to the police into the investigation, and he may very well pressurize the witnesses and may flee from justice as well, hence petitioner is not entitled for grant of concession of anticipatory bail.

7. *That the petitioner is a habitual criminal having his complicity in other criminal cases of various nature. The details of the FIRs already registered against the petitioner are being enumerated hereunder:-*
 - i. *FIR No. 238 dated 26.06.2016, under Sections 174A IPC (in NI Act), Police Station - Dharuhera (Current Status :- **Convicted**)*
8. *That there are serious allegations have been levelled against the petitioner and recovery of Rs. 58,00,000/- from the petitioner is still pending, hence petitioner is not entitled for grant of concession of anticipatory bail.*
9. *That further petitioner is the main accused and played an active role in the commission of the crime and the totality of the circumstances, particularly the nature of the offence and the manner of commission thereof, disentitle the petitioner from the grant of concession of regular bail, hence petitioner is not entitled for grant of concession of anticipatory bail.”*

4.1. Learned State counsel as also learned counsel for the complainant have also iterated that the allegations against the petitioner are specific and direct. Given the severity of the offence regarding dishonestly cheating, there exists a substantial likelihood that the petitioner may abscond or tamper with the evidence, if he is enlarged on bail. On the strength of these submissions, dismissal of the petition in hand is entreated for.

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(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.

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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 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 case put forth in the FIR in question, the allegations against the petitioner are grave and specific. The allegations levelled against the petitioner are that he, in connivance with the co-accused persons, entered into a criminal conspiracy and committed cheating by duping the complainant of an amount of ₹1,27,00,000/- on the false assurance of selling land and by adopting fraudulent means. It is further the case of the prosecution that the petitioner received a total amount of ₹58,00,000/-, out of which ₹30,00,000/- was obtained directly from the complainant and ₹28,00,000/- was received from co-accused – Parkash Saini. From the said amount, ₹9,00,000/- was transferred to the bank account of his wife and ₹19,00,000/- was withdrawn in cash, thereby *prima facie* establishing his active involvement in the misappropriation of the cheated amount.

7.1. A perusal of the aforesaid status report reveals that the petitioner has a criminal antecedent, having been convicted in FIR under Section 174-A IPC, which further weighs against him.

7.2. The petitioner has been specifically named in the FIR. No cause *may* 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. 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, (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.”

9. In view of the seriousness of the allegations, this Court finds no compelling ground to extend the benefit of discretionary relief to the petitioner. 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**.
10. Nothing said hereinabove shall be deemed to be an expression of opinion upon merits of the case/investigation.
11. Pending application(s), if any, shall also stand disposed off.

(SUMEET GOEL)
JUDGE

March 30, 2026
mahavir

Whether speaking/reasoned: Yes/No

Whether reportable: Yes/No