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IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

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Date of Decision:-06.03.2026

SOM NATH JAGAT

.....Petitioner

VERSUS

STATE OF HARYANA

.....Respondent

CORAM:- HON'BLE MR. JUSTICE JASJIT SINGH BEDI

Present:- Mr. Prateek Gupta, Advocate
for the Petitioner.

Mr. Viney Phogat, DAG, Haryana.

JASJIT SINGH BEDI, J.

The prayer in this second petition under Section 483 BNSS, 2023 is for the grant of anticipatory bail in case FIR No.82 dated 26.04.2024 registered under Section 42 of Prisons Act, Sections 7 & 8 of P.C. Act read with Section 120-B IPC at Police Station City Thanesar, District Kurukshetra.

2. The allegations against that the petitioner are that while he was posted as a Superintendent of District Jail, Kurukshetra from 12.10.2021 to 03.09.2024, he unauthorizedly facilitated the jail inmates to keep and use mobile phones, shifted jail inmates from one lockup cell to another lockup cell, allowed visitors to meet the jail inmates without making entry in the visitors register and provided several other facilities to the jail inmates illegally. For the said purpose, he demanded illegal gratification through his subordinate staff. He allowed one Shamsher Singh @ Monu Rana, a notorious gangster/liquor trader to use a mobile phone and provided him

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undue facilities inside the jail to make his stay comfortable. He also allowed unauthorized meetings of a co-accused Pradeep and others inside the jail with Shamsher Singh @ Monu Rana without making entries in the visitors register. The petitioner also got the CCTV's switched off during such visits so that the CCTV footage of the unauthorized visit was not recorded. These facilities were provided by the petitioner to Shamsher Singh @ Monu Rana inside the jail in lieu of demand and acceptance of illegal gratification through his subordinate staff. Shamsher Singh @ Monu Rana hatched a criminal conspiracy with his co-accused while he was in jail for manufacturing spurious liquor and all hardened criminals were running their liquor businesses illegally. The consumption of such illegal liquor led to the death of 20 people and serious illness/loss of limbs of several others.

3. The learned counsel for the petitioner contends that initially, the petitioner had sought the concession of anticipatory bail from this Court which came to be dismissed vide order dated 08.11.2024 (Annexure P-2). The said order was impugned before the Hon'ble Supreme Court and the Hon'ble Supreme Court dismissed the SLP preferred by the petitioner. Subsequently, he was declared a proclaimed person on 18.08.2025 (Annexure P-4) which order has been separately challenged. In view of the deteriorating health of the petitioner evident from the medical reports (Annexure P-5), he approached the Court of Sessions once again seeking grant of anticipatory bail which Court dismissed the same on 04.02.2026 (Annexure P-6) necessitating the filing of the instant second petition for the grant of anticipatory bail. He prays that in view of the medical condition of the petitioner which would amount to change in material circumstances, the

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petitioner is entitled to the concession of anticipatory bail.

4. On the other hand, the learned State counsel contends that a second petition for the grant of anticipatory bail is not maintainable unless there are significant change in circumstances which are missing in the instant case. Further, the petitioner has been declared a proclaimed offender. Therefore, the question of granting the concession of anticipatory bail to the petitioner does not arise. He thus, prays that the present petition is liable to be dismissed.

5. I have heard the learned counsel for the parties.

6. This Court while dismissing the first anticipatory bail petition of the petitioner passed a detailed order on 08.11.2024 (Annexure P-2). The relevant extract of the said order is reproduced hereinbelow:-

“14. Apart from that, during the course of investigation, the statements of several jail officials/other witnesses have been recorded under Section 164 Cr.P.C. as well as Section 161 Cr.P.C. and in the considered opinion of the Court, the police has been able to gather sufficient evidence against the present petitioner, which have been extensively referred by the learned State counsel during the course of arguments. Thus, keeping view the gravity of the matter, the petitioner does not deserve the concession of anticipatory bail.

15. This Court, also agrees with learned State counsel that the custodial interrogation of the petitioner would be eminently required to unravel the role, viz-a-viz, the modus operandi adopted, collection of illegal gratification, his association with other jail staff as well as senior official of Haryana Prison's Department. Still further, during his custodial interrogation, the police may also know the entire racket prevalent inside the District Jail, Kurukshetra and the negotiations between the criminals and the jail officials, his custody may also be required by the police to



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recover the bribe money and any other incriminating articles/documents, which may have been hidden by the present petitioner.

16. Apart from above, this Court has also noticed that notice was issued by the Investigating Officer to the petitioner to join the investigation at 10.00 a.m. on 03.09.2024 in the Office of State Crime Branch, Madhuban. Instead of appearing and joining the investigation, the petitioner forged and fabricated a medical certificate allegedly issued by Shri Balaji Aroyagam Hospital, Private Limited, Kurukshetra. Thus, his misconduct disentitled him to the discretionary relief of anticipatory bail and the petition deserves to be dismissed by this Court.

17. Dismissed.”

7. The petitioner preferred SLP (Crl.) No.1525/2025 against the aforementioned order which came to be dismissed vide order dated 03.02.2025 (Annexure P-3). The said order is reproduced hereinbelow:-

“1. We are not inclined to interfere with the impugned judgment and order of the High Court; hence, the special leave petition is dismissed.

2. Pending application(s), if any, shall stand disposed of.”

8. Thereafter, the petitioner was declared a proclaimed person vide order dated 18.08.2025 (Annexure P-4) passed by the CJM, Kurukshetra.

The said order is reproduced hereinbelow:-

“Today the case was fixed for presence of accused Som Nath Jagat. Statement of tamili has been recorded wherein he submitted that proclamation had been effected on 15.07.2025. Since, statutory period of 30 days expired. From the perusal of statement given by concerned tamili, this court is satisfied that the said proclamation was duly published on said date in the manner specified in clause (i) of Sub-Section 2 of Section 82 Cr.P.C. 1973.

Since, statutory period of 30 days has been expired. Case called several times since morning. It is already 03:30 PM. The accused have not appeared in the Court. Therefore, accused



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Somanth Jagat is hereby declared as proclaimed person. Now case is adjourned to 29.10.2025 for awaiting challan.”

9. On account of his medical condition, he sought the concession of anticipatory bail once again which came to be dismissed vide order dated 04.02.2026 (Annexure P-6) passed by the Addl. Sessions Judge, Kurukshetra. The relevant extract of the said order is as under:-

“6. In the present case, the allegations against the applicant/accused Som Nath Jagat, is qua the commission of the offences punishable under sections under Sections 7, 8, 42 of C Act and section 120-B of IPC. The allegations levelled by the complainant are to the effect that the applicant/accused being the Superintendent, District Jail, Kurukshetra, in connivance with other jail officials, had provided mobile phone and other special facilities to a criminal named Monu Rana @ Shamsheer on receipt of illegal gratification, who used the same in order to trade illicit liquor due to which 20 persons had lost their lives. Learned Public Prosecutor for the State prayed for dismissal of the present application.

7. It is an established position of law that pre-arrest bail to an accused should be granted in exceptional circumstances as the person couched in the comparative safety of pre-arrest bail may not disclose all the facts within his knowledge. In the present case the present applicant/accused is to be interrogated regarding the modus-operandi used by the accused persons in the commission of the offence. As far as the contentions regarding the medical treatment of the applicant/accused is concerned, if he is suffering from ailment, then in the event of arrest, he can be provided appropriate treatment in Government Hospital/Institutions. Otherwise also, the FIR is dated 26.04.2024 and the applicant/accused is still at large whose anticipatory bail has been dismissed upto Hon'ble Supreme Court of India and even then he did not surrender before police and such like person cannot be supposed to be co-operative in the investigation. So, in these circumstances, I find merit in the contention of learned



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Public Prosecutor for the State that the custodial interrogation of the applicant/accused is required for complete and effective investigation and in case the same is denied to the investigating agency, it may leave many glaring loopholes and gaps thereby affecting the investigation adversely

8. In view of the above, but without commenting upon the merits of the case, I am of the considered opinion that the applicant/accused is not entitled to the concession of anticipatory bail. Therefore, the application moved by the applicant/accused Som Nath Jagat for grant of anticipatory bail under Section 482 BNSS is, hereby, dismissed. File be consigned to the record-room after due compliance.”

10. A perusal of the aforementioned extracts of orders would reveal that this Court vide a detailed order declined the prayer for the grant of anticipatory bail to the petitioner. The said order was assailed before the Hon’ble Supreme Court which dismissed the SLP. A second petition seeking the grant of anticipatory bail was preferred on the grounds that the petitioner was ailing. However, the said petition has also been dismissed by the Court of Session.

11. The Hon’ble Supreme Court in the context of grant of anticipatory bail to an absconder has held as under:-

In **State of Madhya Pradesh Vs. Pradeep Sharma, 2014(1)**

RCR (Criminal) 269, the Hon’ble Supreme Court held as under:-

“12. Recently, in Laves v. State (NCT of Delhi), 2012(4) RCR (Criminal) 240 : 2012(4) Recent Apex Judgments (R.A.J.) 329 : (2012)8 SCC 730, this Court, (of which both of us were parties) considered the scope of granting relief under Section 438 vis-a-vis to a person who was declared as an absconder or proclaimed offender in terms of Section 82 of the Code. In para 12, this Court held as under :



"12. From these materials and information, it is clear that the present appellant was not available for interrogation and investigation and was declared as "absconder". Normally, when the accused is "absconding" and declared as a "proclaimed offender", there is no question of granting anticipatory bail. We reiterate that when a person against whom a warrant had been issued and is absconding or concealing himself in order to avoid execution of warrant and declared as a proclaimed offender in terms of Section 82 of the Code he is not entitled to the relief of anticipatory bail."

It is clear from the above decision that if anyone is declared as an absconder/proclaimed offender in terms of Section 82 of the Code, he is not entitled to the relief of anticipatory bail. In the case on hand, a perusal of the materials i.e., confessional statements of Sanjay Namdev, Pawan Kumar @ Ravi and Vijay @ Monu Brahambhatt reveals that the respondents administered poisonous substance to the deceased. Further, the statements of witnesses that were recorded and the report of the Department of Forensic Medicine & Toxicology Government Medical College & Hospital, Nagpur dated 21.03.2012 have confirmed the existence of poison in milk rabri. Further, it is brought to our notice that warrants were issued on 21.11.2012 for the arrest of the respondents herein. Since they were not available/traceable, a proclamation under Section 82 of the Code was issued on 29.11.2012. The documents (Annexure-P13) produced by the State clearly show that the CJM, Chhindwara, M.P. issued a proclamation requiring the appearance of both the respondents/accused under Section 82 of the Code to answer the complaint on 29.12.2012. All these materials were neither adverted to nor considered by the High Court while granting anticipatory bail and the High Court, without indicating any reason except stating "facts and circumstances of the case", granted an order of anticipatory bail to both the accused. It is relevant to point out that both the accused are facing prosecution for offences punishable under Sections 302 and 120B read with Section 34 of Indian Penal



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Code. In such serious offences, particularly, the respondents/accused being proclaimed offenders, we are unable to sustain the impugned orders of granting anticipatory bail. The High Court failed to appreciate that it is a settled position of law that where the accused has been declared as an absconder and has not cooperated with the investigation, he should not be granted anticipatory bail.

13. In the light of what is stated above, the impugned orders of the High Court dated 10.01.2013 and 17.01.2013 in Misc. Criminal Case Nos. 9996 of 2012 and 15283 of 2012 respectively are set aside. Consequently, the subsequent order of the CJM dated 20.02.2013 in Crime No. 1034 of 2011 releasing the accused on bail after taking them into custody in compliance with the impugned order of the High Court is also set aside.

14. In view of the same, both the respondents/accused are directed to surrender before the court concerned within a period of two weeks failing which the trial Court is directed to take them into custody and send them to jail.”

(Emphasis supplied)

In **G.R. Ananda Babu Vs. State of Tamil Nadu & another,**

2021(1) RCR (Criminal) 843, the Hon’ble Supreme Court held as under:-

“7. As a matter of fact, successive anticipatory bail applications ought not to be entertained and more so, when the case diary and the status report, clearly indicated that the accused (respondent No. 2) is absconding and not cooperating with the investigation. The specious reason of change in circumstances cannot be invoked for successive anticipatory bail applications, once it is rejected by a speaking order and that too by the same Judge.”

(Emphasis supplied)



In **Prem Shankar Prasad Vs. State of Bihar & another,**
2021(4) RCR (Criminal) 598, the Hon'ble Supreme held as under:-

“2. That first information report came to be filed by the appellant herein against respondent No.2 with Chapra Town Police Station, Saran in case No.453 of 2018 for the offences punishable under sections 406, 407, 468, 506 of the Indian Penal Code, 1860. A warrant of arrest came to be issued by learned Chief Judicial Magistrate, Saran, Chapra on 19.12.2018. It appears that thereafter respondent No.2 - accused is absconding and concealing himself to avoid service of warrant of arrest. Thereafter learned Chief Judicial Magistrate issued a proclamation against respondent No.2 under section 82 Cr.PC. Only thereafter and issuance of proclamation under section 82 Cr.PC, respondent No.2 - accused filed anticipatory bail application before learned Trial Court. By a detailed order dated 29.01.2019 the learned Trial Court dismissed the said anticipatory bail application and rejected the prayer for anticipatory bail on merits as well as on the ground that as the accused is absconding and even the proceedings under section 82/83 Cr.PC have been issued, the accused is not entitled to the anticipatory bail. That thereafter the accused approached the High Court by way of present application and despite the fact that it was specifically pointed to the High Court that since the process of proclamation under section 82 & 83 Cr.PC have been issued, the accused should not be allowed the privilege of anticipatory bail, ignoring the aforesaid relevant aspect, by the impugned judgment and order the High Court has allowed the said anticipatory bail by observing that in the event of his arrest/surrender within six weeks in the Court below, he may be released on bail on furnishing bail bond of Rs.10,000/- with two sureties of the like amount each to the satisfaction of the learned Chief Judicial Magistrate, Saran, Chapra and subject to the conditions as laid-down under section 438 (2) of Cr.PC.

7.3 In the case of *State of Madhya Pradesh v. Pradeep*



Sharma (Supra), it is observed and held by this court that if anyone is declared as an absconder/proclaimed offender in terms of section 82 of Cr.PC, he is not entitled to relief of anticipatory bail. In paragraph 14 to 16, it is observed and held as under:-

"14. In order to answer the above question, it is desirable to refer to Section 438 of the Code which reads as under:

"438. Direction for grant of bail to person apprehending arrest.-(1) Where any person has reason to believe that he may be arrested on accusation of having committed a non-bailable offence, he may apply to the High Court or the Court of Session for a direction under this section that in the event of such arrest he shall be released on bail; and that court may, after taking into consideration, inter alia, the following factors, namely-

- (i) the nature and gravity of the accusation;*
- (ii) the antecedents of the applicant including the fact as to whether he has previously undergone imprisonment on conviction by a court in respect of any cognizable offence;*
- (iii) the possibility of the applicant to flee from justice; and*
- (iv) where the accusation has been made with the object of injuring or humiliating the applicant by having him so arrested, either reject the application forthwith or issue an interim order for the grant of anticipatory bail:*

Provided that, where the High Court or, as the case may be, the Court of Session, has not passed any interim order under this subsection or has rejected the application for grant of anticipatory bail, it shall be open to an officer in charge of a police station to arrest, without warrant the applicant on the basis of the accusation apprehended in such application."

The above provision makes it clear that the power exercisable under Section 438 of the Code is somewhat extraordinary in character and it is to be exercised only in exceptional cases where it appears that the person may be falsely implicated or



where there are reasonable grounds for holding that a person accused of an offence is not likely to otherwise misuse his liberty.

15. In Adri Dharan Das v. State of W.B. [(2005) 4 SCC 303] this Court considered the scope of Section 438 of the Code as under : (SCC pp. 311-12, para 16)

"16. Section 438 is a procedural provision which is concerned with the personal liberty of an individual who is entitled to plead innocence, since he is not on the date of application for exercise of power under Section 438 of the Code convicted for the offence in respect of which he seeks bail. The applicant must show that he has 'reason to believe' that he may be arrested in a non-bailable offence. Use of the expression 'reason to believe' shows that the belief that the applicant may be arrested must be founded on reasonable grounds. Mere 'fear' is not 'belief' for which reason it is not enough for the applicant to show that he has some sort of vague apprehension that someone is going to make an accusation against him in pursuance of which he may be arrested. Grounds on which the belief of the applicant is based that he may be arrested in non-bailable offence must be capable of being examined. If an application is made to the High Court or the Court of Session, it is for the court concerned to decide whether a case has been made out for granting of the relief sought. The provisions cannot be invoked after arrest of the accused. A blanket order should not be generally passed. It flows from the very language of the section which requires the applicant to show that he has reason to believe that he may be arrested. A belief can be said to be founded on reasonable grounds only if there is something tangible to go by on the basis of which it can be said that the applicant's apprehension that he may be arrested is genuine. Normally a direction should not issue to the effect that the applicant shall be released on bail 'whenever arrested for whichever offence whatsoever'. Such



'blanket order' should not be passed as it would serve as a blanket to cover or protect any and every kind of allegedly unlawful activity. An order under Section 438 is a device to secure the individual's liberty, it is neither a passport to the commission of crimes nor a shield against any and all kinds of accusations likely or unlikely. On the facts of the case, considered in the background of the legal position set out above, this does not prima facie appear to be a case where any order in terms of Section 438 of the Code can be passed."

16. Recently, in Lavesb v. State (NCT of Delhi) [(2012) 8 SCC 730], this Court (of which both of us were parties) considered the scope of granting relief under Section 438 vis-a-vis a person who was declared as an absconder or proclaimed offender in terms of Section 82 of the Code. In para 12, this Court held as under : (SCC p. 733)

"12. From these materials and information, it is clear that the present appellant was not available for interrogation and investigation and was declared as 'absconder'. Normally, when the accused is 'absconding' and declared as a 'proclaimed offender', there is no question of granting anticipatory bail. We reiterate that when a person against whom a warrant had been issued and is absconding or concealing himself in order to avoid execution of warrant and declared as a proclaimed offender in terms of Section 82 of the Code he is not entitled to the relief of anticipatory bail."

It is clear from the above decision that if anyone is declared as an absconder/proclaimed offender in terms of Section 82 of the Code, he is not entitled to the relief of anticipatory bail."

Thus the High court has committed an error in granting anticipatory bail to respondent No.2 - accused ignoring the



proceedings under Section 8283 of Cr.PC.”

(Emphasis supplied)

In **Balmukund Singh Gautam Vs. State of Madhya Pradesh & another, 2026 INSC 157** , the Hon’ble Supreme Court held as under:-

“50. It is apposite to mention that granting the relief of anticipatory bail to an absconding accused person sets a bad precedent and sends a message that the law-abiding co-accused persons who stood trial, were wrong to diligently attend the process of trial and further, incentivises people to evade the process of law with impunity.”

(Emphasis supplied)

12. In the instant case, not only is the petitioner a proclaimed person but the instant second petition for the grant of anticipatory bail has been filed without any change in material circumstances as suffering from an ailment cannot amount to material change in circumstances since the accused person would continue to receive medical treatment even while in jail.

13. In view of the above, I find no merit in the present petition. Therefore, the same stands dismissed.

(JASJIT SINGH BEDI)
JUDGE

06.03.2026
JITESH

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