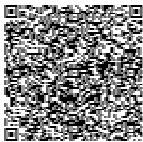


2026:PHHC:065681



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IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M-12235-2026

Rakesh Kumar and another

....Petitioners

versus

State of Punjab

....Respondent

Date of Decision: April 29, 2026

Date of Uploading: April 29, 2026

CORAM: HON'BLE MR. JUSTICE SUMEET GOEL

Present: Mr. Gursimran Singh Madaan, Advocate for the petitioner.

Mr. Adhiraj Singh Thind, AAG Punjab.

Mr. A.S. Manaise, 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 petitioners, in case bearing FIR
No.45 dated 17.02.2026, registered for the offences punishable under Sections
318(4), 336(3), 338, 340(2), 329, 61(2) of the BNS, 2023, at Police Station
Division No.5, District Ludhiana.

2. The gravamen of allegations against the petitioners is that the
petitioner have transferred the property of one Bihari Lal (expired) in their
favour in exclusion to the other legal heirs. It has been alleged that the
petitioners have forged the record in order to reflect the ownership of one

H.S. Grewal from whom they got two sale deeds executed despite knowing that the property was actually owned by their grandfather Bihari Lal and their vendors had no title to transfer to the accused persons.

3. Learned counsel for the petitioners has iterated that bare perusal of the FIR itself shows that allegations leveled against the petitioners are concocted, improbable and devoid of any merit. Learned counsel has further iterated that the petitioners have been falsely implicated into the FIR in question. Learned counsel has submitted that father of the petitioners are in possession of two separate plots measuring 57 sq. yards and 171 sq. yards, respectively, which forms part of total property of 560 sq. yards shown to be in possession of grand-father (Bihari Lal) of the petitioners through TS-1 with the Municipal Corporation. Learned counsel has submitted that the complainant had filed civil suit against the brother of petitioner, but by lodging the FIR in question, the complainant has given criminal colour to the said civil dispute. Learned counsel has submitted that the petitioners have got the sale deed executed in their favour just to remove any defect in their title. Learned counsel has submitted that the petitioners are in ownership and possession of the suit property.

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 petitioners. Furthermore, the petitioners are 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.

3.2. Learned counsel has submitted that pursuant to the orders dated 07.03.2026 and 07.04.2026 passed by this Court, the petitioners have joined investigation and cooperated therein.

4. *Per contra*, learned State counsel, while raising submissions in tandem with the short reply by way of an affidavit dated 28.04.2026, filed in the Court today by learned State counsel, has opposed the grant of anticipatory bail to the petitioner by arguing that the offence committed by the petitioners is serious in nature. Relevant of the said status report reads thus:

“7. That during the course of questioning, in response to a specific query, Petitioner No.1, Rakesh Kumar, admitted that he had submitted the aforesaid e-Naksha application in the name of Madan Lal and had also affixed/signatures purporting to be those of Madan Lal on the accompanying undertaking. Further, Petitioner No.2, Ajay Dhingra, who also joined the investigation on the same date, corroborated the said admission by stating that the signatures appearing on the said documents in the name of Madan Lal were done by Petitioner No.1, Rakesh Kumar.

8. That in view of the aforesaid facts and circumstances, it is evident that Petitioner No.1 has actively engaged in the preparation and submission of forged documents by impersonating the deceased Madan Lal and affixing his signatures on the official application and undertaking. It is further submitted that Petitioner No.2 was in active connivance with Petitioner No.1, having full knowledge of the fabrication and having corroborated the same during investigation, thereby facilitating and supporting the commission of the said offences. In these circumstances, considering the nature and gravity of the offence, it is submitted that the petitioners do not deserve the concession of pre-arrest bail.”

4.1. Learned State counsel has also iterated that the allegations against the petitioners are specific. Given the severity of the offence regarding dishonestly cheating, there exists a substantial likelihood that the petitioners may abscond or tamper with the evidence, if they are enlarged on bail. Learned State counsel has also submitted that pursuant to the orders passed by

this Court, the petitioners have joined investigation. On the strength of these submissions, dismissal of the petition in hand is entreated for.

4.2. Learned counsel for the complainant, while raising submissions in tandem with the submissions of learned State counsel, has also vehemently opposed the grant of anticipatory bail to the petitioners by arguing that the allegations leveled against the petitioners are serious in nature. Learned counsel has submitted that petitioners, in connivance with each other, have committed serious offence by preparing and submitting forged documents by impersonating deceased Madan Lal and affixing his signatures on the official application and undertaking. Learned counsel has submitted that, in case, the petitioners are granted the concession of anticipatory bail, there is all likelihood that the petitioners may abscond from the process of justice as also interfere/ intimidate the prosecution witnesses/ evidence. 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 passed by the Hon'ble Supreme Court in the case titled as *Sumitha Pradeep vs. Arun Kumar C.K. and another, 2022(4) RCR (Criminal) 977*, relevant whereof reads as under:

“12. In a case containing such serious allegations, the High Court ought not to have exercised its jurisdiction in granting protection against arrest, as the Investigating Officer deserves freehand to take the investigation to its logical conclusion. It goes without saying that appearance before the Investigating Officer who, has been prevented from subjecting Respondent No.1 to custodial interrogation, can hardly be fruitful to find out the prima facie substance in the allegations, which are of extreme serious in nature.

xxx xxx xxx xxx

16. In many anticipatory bail matters, we have noticed one common argument being canvassed that no custodial interrogation is required and, therefore, anticipatory bail may be granted. There appears to be a serious misconception of law that if no case for custodial interrogation is made out by the prosecution, then that alone would be a good ground to grant

anticipatory bail. Custodial interrogation can be one of the relevant aspects to be considered along with other grounds while deciding an application seeking anticipatory bail. There may be many cases in which the custodial interrogation of the accused may not be required, but that does not mean that the prima facie case against the accused should be ignored or overlooked and he should be granted anticipatory bail. The first and foremost thing that the court hearing an anticipatory bail application should consider is the prima facie case put up against the accused. Thereafter, the nature of the offence should be looked into along with the severity of the punishment. Custodial interrogation can be one of the grounds to decline custodial interrogation. However, even if custodial interrogation is not required or necessitated, by itself, cannot be a ground to grant anticipatory bail.”

7. As per the case put forth by the prosecution, the allegations against the petitioners are serious in nature. As per the prosecution case and upon perusal of material on record, it emerges that petitioner No.1 has admitted to submitting the e-Naksha application in the name of deceased Madan Lal and affixing forged signatures, which *prima facie* indicates acts of impersonation and forgery of official documents. It further emerges that the said admission is further corroborated by petitioner No.2, establishing active connivance between the petitioners in the commission of the alleged offences. Moreover, the record reflects deliberate tampering of municipal and ownership entries to project title in favour of the accused persons through an alleged vendor, H.S. Grewal, whose ownership is not supported by any credible document. On the contrary, the property is shown to have originally belonged to Bihari Lal and to have devolved upon his legal heirs by way of natural succession, thereby *prima facie* exposing the falsity of the claim set up by the petitioners. The conduct of the petitioners demonstrates their intention to gain unlawful advantage over the property.

7.1. The plea that pursuant to the orders dated 07.03.2026 and 07.04.2026, the petitioners have joined investigation and cooperated therein cannot be of no help to the petitioners since the allegations, in the present

case, against them involve forgery, impersonation, and tampering with official records, which are serious in nature. Merely because custodial interrogation may not be immediately required cannot be a ground to grant anticipatory bail.

8. The petitioners have been specifically named in the FIR. No cause *nay* plausible cause has been shown, at this stage, from which it can be deciphered that the petitioners have been falsely implicated into the present FIR.

9. 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 petitioners. 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.”

10. In view of the seriousness of the allegations, this Court finds no compelling ground to extend the benefit of discretionary relief to the petitioners. Moreover, custodial interrogation of the petitioners is necessary for an effective investigation & to unravel the truth. The petition is, thus, devoid of merits and is hereby **dismissed**.

11. Nothing said hereinabove shall be deemed to be an expression of opinion upon merits of the case/investigation.

12. Pending application(s), if any, shall also stand disposed off.

(SUMEET GOEL)
JUDGE

April 29, 2026
mahavir

Whether speaking/reasoned: Yes/No

Whether reportable: Yes/No