2026:PHHC:049243

112
IN THE HIGH COURT OF PUNJAB AND HARYANAAT CHANDIGARH

CRM-M-14612-2026

Om Shiv Hari Chahar
....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. Sunil Kaushik, Advocate for the petitioner.

Mr. Gurmeet Singh, AAG Haryana.

None for the complainant.

*****

SUMEET GOEL, J. (ORAL)

Present petition is the second attempt under Section 482 of the Bharatiya Nagarik Suraksha Sanhita, 2023 (for short 'BNSS') for grant of anticipatory bail to the petitioner, in case bearing FIR No.0522 dated 27.12.2020, registered for the offences punishable under Sections 406, 420, 506 and 120-B of the IPC, 1860, at Police Station Sector 14, District Gurugram.

The petitioner had earlier applied for grant of anticipatory bail in the FIR in question, before this Court, which was dismissed as withdrawn on 18.02.2026. The relevant part of the said order reads as under:

"*1. Apprehending his arrest in FIR No.522 dated 27.12.2020 registered for offences punishable under Sections 406, 420, 506, 120-B IPC at Police Station Sector-14, District Gurugram; the petitioner has preferred this petition under Section 482 of Bharatiya Nagarik Suraksha Sanhita, 2023 seeking pre-arrest bail.*

> *2. Learned counsel appearing for the petitioner seeks to withdraw the petition in hand with liberty to file afresh on the same cause of action, after giving better particulars/dates.*
> *3. Ordered accordingly.*"

2. The gravamen of the allegations against the petitioner is that the complainants, M/s Radhey Shyam Contractor, a partnership firm engaged in construction and allied works with the PWD (B&R), through its partners Radhey Shyam Mehta and Deepak Mehta, along with M/s V.P. Yadav Contractor, a proprietorship firm carrying on similar business, submitted a complaint to the Commissioner of Police, Gurugram, by stating that relying upon the representations and assurances made by the accused persons, the complainants transferred substantial amounts through banking channels and, on the insistence of the accused, also made certain payments in cash, as they were informed that such cash transactions were necessary to facilitate mining operations. The total amount allegedly paid by the complainants to the accused persons amounted to ₹2,44,00,000/-, inclusive of principal, cash component, interest, and agreed returns/profits.

It was further alleged that the accused persons executed receipts acknowledging the said amounts and assured the complainants that they would be inducted as partners in the mining business. However, despite repeated requests, the accused persons failed to execute the promised partnership documents.

Upon making inquiries, the complainants allegedly discovered that mining activities in Rajasthan had been banned pursuant to orders of the Hon'ble Supreme Court, contrary to the representations made by the accused. It was further alleged that cheques issued by the accused towards partial repayment were dishonoured, thereby causing significant financial loss and mental distress to the complainants, who are senior citizens. The complainants further alleged that the accused persons had acted with dishonest intention from the very inception, misappropriated the invested amounts, and also extended threats when repayment was demanded.

3. Learned counsel for the petitioner has argued that the petitioner has been falsely implicated into the FIR in question. Learned counsel has argued that the petitioner has been arrayed as accused No.6 in the FIR in question. Learned counsel has further argued that as per prosecution case, only Rs.14,00,000/- was transferred in the account of the petitioner, through RTGS, on 13.03.2018, and the petitioner has already transferred a sum of Rs.10,00,000/- each to Ankit Yadav and Vikas Mehta, through RTAGS. Learned counsel has further iterated that except the aforesaid, there is no specific overt act demonstrating dishonest intention at the inception of the alleged transaction has been attributed to the petitioner. Learned counsel has argued that the petitioner has nothing to do with the alleged offence of issuance and dishonor of cheques pertaining to accused No.2 and the firm allegedly being operated by him. Learned counsel has submitted that the case in hand relates to civil or commercial dispute and the entire case rests upon documentary evidence. Learned counsel has further submitted that the offence in question is stated to be happened in 2018, whereas, the FIR has been registered in December 2020, i.e., after an unexplained delay of more than 02 years. Learned counsel has iterated that the petitioner is ready and willing to pay a sum of Rs.5,00,000/- to the complainant.

3.1. Learned counsel has argued that nothing is to be recovered from the petitioner. Learned counsel has further iterated that the petitioner is ready and willing to join investigation, and no purpose would be served by keeping the petitioner behind bars. On the basis of the aforementioned submissions, grant of the instant petition is prayed for.

4. Learned State counsel has filed status report by way of an affidavit dated 27.03.2026, in the Court today, which is taken on record. Raising submissions in tandem with the said status report, learned State counsel has opposed the grant of anticipatory bail to the petitioner by arguing that allegations raised against the petitioner are serious in nature. Relevant of the said status report reads thus:

> "***18. ROLE OF THE PETITIONER***: *That in so far as the role of the petitioner is concerned, it is submitted that the petitioner had played an active role in the commission of the present crime. The petitioner in connivance with the co-accused persons had hatched a conspiracy in order to cheat and defraud the complainants by inducing them to invest substantial amounts in a purported mining business on the false assurance of high returns and partnership, in pursuance thereof, a sum of Rs.14,00,000/- and Rs.11,00,000/- was transferred into the bank account of the petitioner's firm. Thereafter, transferred the same to other accused persons. The petitioner was the direct beneficiary of the duped amount and thereby establishing his direct involvement in receiving and misappropriating part of the cheated amount, and despite repeated demands, neither returned the money nor fulfilled the promised obligations, reflecting dishonest intention from the very inception, while subsequently evading investigation, necessitating his custodial interrogation.*"

Learned State counsel has further submitted that, investigation, in the present case, is still under way and the petitioner is yet to be arrested. In case, the petitioner is released on anticipatory bail, there is all likelihood that he may interfere with the prosecution evidence/ witnesses. Given these circumstances, custodial interrogation of the petitioner is indispensable. It is therefore, submitted that the present petition is devoid of merit and is liable to be dismissed.

4.1. Learned State counsel has also filed compliance report dated 29.03.2026, stating therein that in compliance to the order dated17.03.2026 passed by this Court, both the complainants have been duly apprised about the pendency of the present petition as well as the adjourned date. However, none has caused appearance on behalf of them.

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 this Court in a titled as **Bhisham Singh vs. State of Haryana, 2024(3) RCR(Criminal) 65**, relevant whereof reads as under:

> "*11. As an epilogue to the above rumination, the following principles emerge:*
>
> *I Second/successive anticipatory bail petition(s) filed under Section 438 of Cr.P.C., 1973 is maintainable in law & hence such petition ought not to be rejected solely on the ground of maintainability thereof.*
>
> *II Such second/successive anticipatory bail petition(s) is maintainable whether earlier petition was dismissed as withdrawn/dismissed as not pressed/dismissed for non-prosecution or earlier petition was dismissed on merits.*
>
> *III For the second/successive anticipatory bail petition(s) to succeed, the petitioner/applicant shall be essentially/pertinently required to show substantial change in circumstances and showing of a mere superficial or ostensible change would not suffice.*
>
> *IV No exhaustive guidelines can possibly be laid down as to what would constitute substantial change in circumstances as every case has its own unique facts/circumstance. Accordingly, this issue is best left to the judicial wisdom and discretion of the Court dealing with such second/successive anticipatory bail petition(s).*
>
> *V In case a Court chooses to grant second/successive anticipatory bail petition(s), cogent and lucid reasons are pertinently required to be recorded for granting such plea despite such a plea being second/successive petition(s). In other words, the cause for a Court having successfully countenanced/entertained such second/successive petition(s) ought to be readily and clearly decipherable from the said order passed.*
>
> *VI Once a plea for anticipatory bail has been dismissed as withdrawn/dismissed as not pressed/dismissed for non-prosecution or dismissed on merits by the High Court, no second/successive anticipatory bail petition(s) shall be entertained by a Sessions Court.*"

7. Apart from it being second anticipatory bail, as per the case put forth in the FIR in question, indubitably, serious allegations have been leveled against the petitioner. As per prosecution case and status report filed by learned State counsel, it is borne out that serious and specific allegations have been levelled against the petitioner. The petitioner played an active and instrumental role in the commission of the present offence. The petitioner, in connivance with the co-accused persons, hatched a criminal conspiracy to cheat and defraud the complainants by inducing them to invest substantial amounts in a purported mining business on the false assurance of high returns and partnership. In furtherance of the said conspiracy, amounts of ₹14,00,000/- and ₹11,00,000/- were transferred into the bank account of the petitioner's firm, which were thereafter routed to other accused persons. The petitioner was, thus, a direct beneficiary of the cheated amount, clearly establishing his involvement in the receipt and misappropriation of part of the defrauded funds. Despite repeated demands, the petitioner neither returned the said amounts nor fulfilled the assurances extended to the complainants, thereby reflecting a dishonest intention from the very inception. Furthermore, the petitioner has evaded investigation, necessitating custodial interrogation.

7.1. Furthermore, the investigation is still at a crucial stage, and custodial interrogation of the petitioner is considered necessary to unearth the complete facts and to ascertain involvement of any other persons connected with the case. The petitioner is yet to be arrested and grant of anticipatory bail, at this stage, may prejudice the ongoing investigation. The apprehension expressed by the prosecution that the petitioner, if released on bail, may abscond or attempt to influence witnesses also appears to be not without basis.

Given the seriousness of the offence, the stage of investigation and possibility of tampering with evidence or obstructing justice, this Court is of the view that the petitioner does not deserve the concession of bail at this juncture.

8. It is befitting to mention here that while considering 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. A profitable reference in this regard is being made to the dicta passed by the Hon'ble Supreme Court titled as ***State v. Anil Sharma, (1997) 7 SCC 187 : 1997 SCC (Cri) 1039***, the Supreme Court held as under, relevant whereof reads as under:

> "*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.*"

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 establish a reasonable basis for his accusation. Thus, it is not appropriate to grant anticipatory bail to the petitioner, as it would necessarily cause impediment in effective investigation.

9. That apart, indubitably, the first petition (for grant of anticipatory bail) preferred by the petitioner was dismissed as withdrawn by this Court on 18.02.2026. It is well settled that a second anticipatory bail petition seeking identical relief is not maintainable unless there is a substantial change in circumstances after the disposal or withdrawal as per the jurisprudence on bail. The grounds urged in the present petition appear to be the same as those which were available to the petitioner at the time when the earlier petition was withdrawn. In the absence of any new fact, development or change in circumstances, entertaining successive petitions would amount to permitting repeated attempts for the same relief, which cannot be countenanced in law. Therefore, notwithstanding the submission regarding the role attributed to the petitioner, this Court finds that the present petition suffers from the vice of maintainability, as no change in circumstances has been demonstrated after the withdrawal of the earlier anticipatory bail petition. Accordingly, this Court is not inclined to grant the concession of anticipatory bail to the petitioner. Furthermore, there is no substantial change *nay* any change in circumstances which may weigh, in favour of entertaining the instant second petition for anticipatory bail. *Ergo*, the instant petition deserves dismissal on this score alone.

10. In the factual *milieu* of the case in hand and in view of seriousness of the allegations against the petitioner, 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**.

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

March 30, 2026
mahavir

Whether speaking/reasoned: Yes/No

Whether reportable: Yes/No