IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

2026:PHHC:049973

103 **CRM-12859-2026 in /& CRM-M-14896-2026**

Kamalpreet Malhotra

....Applicant/Petitioner

V/s

State of Punjab

....Respondent

Date of decision:01.04.2026

Date of Uploading : 01.04.2026

CORAM: HON'BLE MR. JUSTICE SUMEET GOEL

Present: Mr. Tarun K. Sharma, Advocate for the petitioner.

Mr. Hemant Aggarwal, DAG, Punjab.

Mr. Shakti Mehta, Advocate for the complainant.

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SUMEET GOEL, J. (Oral)

CRM-12859-2026

Notice of the application in hand be issued to the respondent.

On the strength of advance copy; Mr. Hemant Aggarwal, DAG, Punjab accepts notice on behalf of respondent-State of Punjab. Mr. Shakti Mehta, Advocate accepts notice on behalf of the complainant.

Having heard learned counsel for the rival parties and upon perusal of the record, this Court deems it fit to recall the order dated 18.03.2026 and the petition is ordered to be restored to its original number/status.

Application stands allowed, accordingly.

<u>CRM-M-14896-2026</u>

1. Present second 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.0198 dated 23.11.2025, registered for the offences punishable under Sections 406 and 420 of the Indian Penal Code, 1860 (for short 'IPC'), at Police Station Sadar Patiala, District Patiala.

The first petition bearing CRM-M-347-2026 (Annexure P-5) for grant of pre-arrest/anticipatory bail filed before this Court was dismissed as withdrawn on 12.01.2026.

The present petition is the second petition for grant of anticipatory/pre-arrest bail which has been preferred by the petitioner on 16.03.2026.

2. The gravamen of the allegations against the petitioner is that Kamalpreet Malhotra (*petitioner herein*) and Ankita allegedly induced the complainant – Karamjeet Singh, on the pretext of facilitating the process of sending his son, namely, Husandeep Singh, abroad. It is alleged that on such inducement, they received a total sum of Rs.18,00,000/- from the complainant. However, neither was any visa arranged or sanctioned for the complainant's son, nor was the said amount refunded, thereby allegedly cheating the complainant. Upon these set of allegations, the instant FIR came to be registered against accused persons.

3. Learned counsel for the petitioner has iterated that a bare perusal of the FIR itself shows that allegations leveled against the petitioner are concocted, improbable and devoid of any merit. Learned counsel has further iterated that the petitioner has been falsely implicated into the FIR in

question. He has further contended that the petitioner was earlier granted interim protection by the concerned Sessions Court, but could not join the investigation due to a communication gap with his counsel, and the subsequent dismissal of bail was on technical grounds and not on merits. Learned counsel has further argued that no specific date/time has been mentioned in the FIR in question in respect of the cheque, which was allegedly given by the complainant. Learned counsel has argued that perusal of the FIR in question nowhere shows any kind of dishonest intention on the part of the petitioner.

3.1. Learned counsel asserts that 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 (on the strength of advance notice) has opposed the grant of anticipatory bail to the petitioner by arguing that the offence committed by the petitioner is serious in nature. Learned State counsel has asserted that the petitioner has been specifically named in the FIR in question to the effect that the complainant had paid substantial amount to the petitioner and his co-accused in order to send his son abroad, but the petitioner, instead, cheated the complainant. They neither sent son of the complainant abroad nor was the amount in question returned to the complainant. According to learned State counsel, the offence committed by the petitioner caused substantial financial and emotional

distress to the victim. Considering the seriousness of the allegations, custodial interrogation of the petitioner maybe necessary to unearth the broader conspiracy, identify co-accused and recover the ill-gotten money. Given the severity of the offence, there exists a substantial likelihood that the petitioner may abscond or tamper with the evidence, if she is enlarged on bail. Furthermore, since the present petition is the second successive anticipatory bail application and is an abuse of the process of law and the same deserves to be dismissed with exemplary costs.

4.1. Learned counsel for the complainant has caused appearance and opposed the grant of anticipatory bail to the petitioner by arguing that there are direct/ serious allegations leveled against the petitioner. In case, the petitioner is released on anticipatory bail, there is all likelihood that the petitioner may abscond from the process of justice as also interfere/ intimidate the prosecution evidence/ witnesses.

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:*
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> *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).*
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> *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 levelled against the petitioner. As per the case put forth in the FIR in question, the allegations against the petitioner are grave and specific. The petitioner and his co-accused are specifically named in the FIR and there are direct and specific allegations regarding defrauding/cheating the complainant on the pretext of sending son of the complainant aboard, but the petitioner and her co-accused neither honored their promise nor had returned the money in question to the complainant.

7.1. The offence in question does not merely involve financial deceit but strikes at the very fabric of social trust, involving elements of human trafficking and cross-border immigration fraud, which are not only grave in nature but also have far-reaching consequences on public order. Cases of this nature, where vulnerable individuals are lured with false promises of lawful migration and are subsequently subjected to exploitation, fall within the ambit of organized human trafficking and merit strict judicial scrutiny and deterrence. Human trafficking under the garb of immigration consultancy is a growing menace which preys upon the desperation and dreams of unsuspecting citizens. The Courts must remain vigilant and ensure that such rackets are not emboldened by leniency at the pre-trial stage. The fraudulent inducement for illegal migration, followed by subjecting individuals to inhumane and life-threatening conditions abroad, not only reflects criminal intent but also constitutes a serious affront to human dignity and national interest. The Court cannot overlook the broader public interest involved in cases of immigration fraud, especially when they border on transnational human trafficking. Such offences necessitate a strong and principled judicial response to prevent their recurrence.

7.2. Such offences strike at the core of public trust and reflect a disturbing trend prevalent in this region, where unscrupulous individuals posing as travel facilitators exploit the aspirations of innocent citizens seeking opportunities abroad. These fraudulent activities not only cause severe financial and emotional distress but also undermine the integrity of lawful immigration systems. Therefore, individuals involved in such organized deceit must be dealt with firmly and in accordance with the law, leaving no room for leniency.

7.3. Furthermore, the investigating agency has sought the custodial interrogation of the petitioner for effective recovery, verification of facts, and to establish the broader conspiracy, if any, behind the occurrence. No cause *nay* 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. It goes without saying that in the instant case, the complainant has categorically stated that the petitioner had defrauded the complainant of a substantial amount under the false pretext of facilitating legal migration of his son to abroad, which caused severe financial and emotional distress.

8. Indubitably, the first petition (for grant of anticipatory bail) preferred by the petitioner was dismissed as withdrawn before this Court on 12.01.2026. It is well settled that a second/third 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 petitions were withdrawn and dismissed. 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 limited 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 or dismissal of the earlier anticipatory bail petitions. Accordingly, this Court is not inclined to grant the concession of anticipatory bail to the petitioner. Furthermore, it is borne out from the record that despite the registration of the FIR in the November, 2025, the petitioner has failed to join the investigation and has remained absconding for a considerable period of

more than 4 months. 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.

8.1 It is evident that the petitioner has deliberately evaded the process of law for over 4 months after the registration of the FIR. The conduct of the petitioner in avoiding arrest for such a prolonged period without any reasonable cause must be considered while adjudicating this second petition. The process of justice is meant to treat every individual in a manner which is equitable and fairly. However; if the petitioner-accused chooses to employ irregular and convoluted tactics, including undue delay, strategically aimed at frustrating lawful proceedings/investigation, it tantamount to an abuse of the process of justice. While liberty and dignity of an individual must be held high, however, no one can be permitted to subvert and cause devolution in the process of justice. Protracted absence, eluding the process of law and abrupt repetition of pleas for pre-arrest bail, in absence of convincing reason(s) is certainly not an act/behaviour which calls for sympathy/indulgence of the Court. Therefore, the conduct of the petitioner when examined in the backdrop of the nature/severity of allegations made against the petitioner, dis-entitles him for grant of anticipatory bail. From the entire factual conspectus brought forward in the present petition, no fresh ground or circumstance is made out so as to enable the petitioner to file and maintain the second anticipatory bail petition.

9. There is another aspect *nay* vital aspect of the matter which deserves to be addressed by this Court.

The sanctity of the judicial process is predicated upon the principle of finality of judicial orders. While there is no express statutory embargo against the filing of successive applications for anticipatory bail, such a right is not an absolute charter for *procedural adventurism*. A litigant who approaches the same Court for the same relief, absent any material change in circumstances engages in a stratagem of attrition that is less a pursuit of justice and more an exercise of *testing the waters*. Such a practice constitutes a classic case of forum shopping, wherein the litigant treats the halls of justice as a laboratory for speculative litigation. By repeatedly knocking on the same door without a fresh cause of action, such a litigant attempt to circumvent the hierarchy of the courts, ignoring the well-settled principle that a party aggrieved by an order must ascend the judicial ladder rather than move horizontally in hopes of a more favourable wind.

9.1 Pertinently, this *hit and try* methodology is a malady that must be detested by this Court, as it strikes at the very root of judicial propriety. To permit a litigant to treat the dismissal of a prior petition as a mere interlocutory suggestion, rather than an authoritative pronouncement, is to invite judicial anarchy. When a Court of is invited to re-evaluate the same facts and the same law previously adjudicated upon, it creates a perilous risk of conflicting orders, thereby eroding the public faith in the consistency and majesty of the law. The judicial time is a precious public resource, and its diversion into the redundant channels of repetitive pleas is a vexatious abuse of process. There is no gainsaying that if there is material change in circumstances the second/subsequent plea ought to be considered on merits thereof, however, if such a second/subsequent plea is based on similar factual *milieu*, the same ought to be nipped in the bud with an iron hand.

Pertinently, such vexatious and virulent attempt(s) by unscrupulous elements, aimed at misusing the process of law and Courts, ought to be detested. The sanctity of the judicial process will be seriously eroded if such attempt(s) is not responded with firmness. A litigant who misuses the process of law or take liberties with the procedural concession should be left in no doubt about the consequences to follow. Others should be discouraged not to venture along the same path in the hope or on a misplaced expectation of judicial leniency or indulgence. Exemplary costs, in such a situation are inevitable and necessary, so as to ensure that in litigation, as in the law which is rather practiced in our Country, there is no premium on such a misplaced adventurism. Accordingly, costs, which ought to be veritable and real time in nature, to be imposed upon the petitioner.

10. In view of the prevenient ratiocination, it is ordained thus:

(i) The petition in hand is devoid of merits and is hereby dismissed with costs of ₹50,000/-, which shall be deposited by the petitioner with Chief Judicial Magistrate (CJM), Patiala within four weeks from today. In case such costs are deposited; CJM, Patiala shall have the same remitted to Punjab State Legal Services Authority, Mohali. In case, the said costs are not deposited by the petitioner as directed for; the CJM, Patiala is directed to intimate the Deputy Commissioner, Patiala who shall have such costs recovered from the petitioner as arrears of land revenue and upon realization thereof, the Deputy Commissioner, Patiala shall have the same submitted to CJM, Patiala, for further remittance thereof to Punjab State Legal Services Authority, Mohali. A compliance report be sent by CJM, Patiala as also Deputy Commissioner, Patiala to this Court accordingly.

(iii) Registry is directed to transmit a copy of this judgment to CJM, Patiala as also Deputy Commissioner, Patiala for requisite compliance.

(iv) Any observations made and/or submissions noted hereinabove shall not have any effect on merits of the case and the investigating agency as also the trial Court shall proceed further, in accordance with law, without being influenced with this order.

(v) Pending application(s), if any, shall also stand disposed of.

(SUMEET GOEL)
JUDGE

April 01, 2026
Naveen

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