

2026:PHHC:057358



**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

107

CRM-M-19757-2026

Ashish Gupta

...Petitioner

V/s

State of Haryana

...Respondent

Date of decision: 16.04.2026**Date of Uploading : 16.04.2026****CORAM: HON'BLE MR. JUSTICE SUMEET GOEL**

Present: Mr. P.S. Ahluwalia, Senior Advocate with
Mr. Jaiveer Singh, Advocate for the petitioner.
Mr. Gurmeet Singh, AAG Haryana.

SUMEET GOEL, J. (Oral)

1. Present petition has been filed on behalf of the petitioner seeking grant of anticipatory/pre-arrest bail under Sections 482 of Bharatiya Nagarik Suraksha Sanhita, 2023 (hereinafter to be referred as 'BNSS') in FIR No.0147 dated 05.06.2025 registered for offences punishable under Sections 318(4), 319(2), 336(3), 338, 340(2) and 238 of BNS at Police Station Kotwali, District Faridabad.

2. The allegations in the FIR, as set-out in the petition, arise from a complaint made by complainant namely Jatinder Singh Arora, who asserted that he was the lawful owner of Apartment No.A-2102, 21st Floor, Tower A, Ibiza Town, Sector 39 Surajkund Road, Faridabad. It has been alleged that the said property was fraudulently transferred by way of a forged sale-deed dated 07.08.2024 in favour of co-accused Gunjan Saxena by impersonating the complainant. The complainant had categorically denied the execution of the said sale-deed and receipt of any consideration.

As per the complainant, the sale-deed dated 07.08.2024 was executed and registered by fraudulently impersonating him. Furthermore, the complainant has alleged that Karamvir and Chander Shekhar Bainsla had prepared a forged and fabricated rent agreement in respect of the disputed property. In connection with the said forged rent agreement, FIR No.317 dated 18.05.2024 under Sections 120-B, 420, 467, 468, 471 and 506 of IPC was registered against Karamvir and Chander Shekhar Bainsla. Accused Karamvir had filed a civil suit in District Court, Faridabad. A settlement in the civil suit took place on 01.04.2025, pursuant to which Karamvir and Chander Shekhar Bainsla had handed-over the possession of the disputed property to the complainant on 01.04.2025. The complainant has further alleged that he was not in possession of the disputed property on 07.08.2024. According to the complainant, accused Karamvir, in collusion with Gunjan Saxena and others, had prepared the forged sale-deed bearing Vasika No.3416 dated 07.08.2024. The complainant had also come to know that accused Gunjan Saxena had obtained a loan on the disputed property on the basis of the said forged and fabricated sale-deed. On these set of allegations, the FIR in question has been registered and the investigation ensued.

3. Learned senior counsel for the petitioner has iterated that the petitioner has been falsely implicated into the FIR in question as he is neither named in the FIR nor is the beneficiary of the alleged forged sale-deed. Learned senior counsel has further iterated that the implication of the petitioner is solely on the basis of disclosure statement(s) made by co-accused persons during police custody which have no evidentiary value in law. It has been further contended that no material has been placed on record which shows any agreement constituting criminal conspiracy.

According to learned senior counsel, the alleged financial transactions, which has been relied upon by the prosecution, are the genuine business dealings much prior to the disputed sale-deed. It has been further argued that the name of the petitioner has been falsely roped into the instant case without any supporting evidence or proper investigation. Moreover, the original sale-deed, if any, is already in possession of the office of Sub-Registrar and cannot be recovered from the petitioner. Learned senior counsel has emphasized that the petitioner has already joined the investigation on multiple occasions and has cooperated with the investigating agency & thus, there is no need for his custodial interrogation. Moreover, there is no likelihood of the petitioner absconding from the process of justice in case he is enlarged on pre-arrest bail. On the strength of aforesaid submission, the grant of instant petition is entreated for.

4. *Per contra*, learned State counsel has vehemently opposed the grant of anticipatory bail to the petitioner by arguing that the allegations made against the petitioner are serious in nature. Learned State counsel has iterated that the substantial amounts have been transferred into the account of the petitioner from co-accused and the petitioner has failed to satisfactorily explain the nature of these transactions. Furthermore, the original sale-deed has not yet been recovered and the petitioner has not disclosed the complete information during investigation. Learned State counsel has pointed out that the role of other co-accused is yet to be fully unearthed and the custodial interrogation of the petitioner is necessary to establish the complete chain of events and conspiracy. He has emphasized that releasing the petitioner on bail at this crucial stage may hamper the ongoing investigation and potentially lead to tampering with evidence or influencing of witnesses. Accordingly, a prayer has been made for the

dismissal of the instant petition in order to facilitate effective investigation into the alleged offence.

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. In State v. Anil Sharma [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.

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. Indubitably, serious allegations have been levelled against the petitioner in the FIR. The allegations in the FIR *ibid* are of serious in nature involving forgery of a registered sale-deed pertaining to a valuable immovable property and consequential financial transactions. The material collected during the course of investigation *prima facie* indicates that the petitioner was in receipt of substantial monetary transactions from accounts

linked with co-accused. In the considered opinion of this Court, the

explanation furnished by the petitioner regarding such transactions is a matter of investigation. Though it is correct that the petitioner has not been named in the FIR but his involvement has surfaced during the course of investigation. The contention that the disclosure statement(s) alone cannot form the basis of implication of the petitioner does not persuade this Court as in the present case the investigation does not rest solely on such statements but is supported by financial trial and surrounding circumstances which require further probe. The plea that the original sale-deed is available with the Sub-Registrar does not, at this stage, dilute the requirement of investigation into the manner of its execution and the flow of the amount. The investigation is still in progress and the role of other accused persons is yet to be ascertained. The stand of the State before this Court is that the custodial interrogation of the petitioner is indispensable for the purpose of identifying the real beneficiaries. The nature and gravity of the offence, involving defrauding the complainant, necessitate a thorough investigation, which, at this stage, cannot be conducted without the petitioner being in custody. Moreover, no exceptional or compelling circumstance has been demonstrated which would warrant the grant of anticipatory bail in such a serious offence. The petitioner, in a calculated and fraudulent manner, induced the complainants from the very inception.

8. The investigation is at a crucial stage and the role of each accused including the petitioner requires thorough investigation. The mere fact that the petitioner has not been named in the FIR does not rule out the possibility of his active involvement in facilitating the offence. The grant of bail at this stage may impede the ongoing investigation and may also adversely affect the efforts of the investigating agency in unraveling the conspiracy. The nature and gravity of the offence, the role attributed to the

petitioner as also the factual matrix of the *lis* essentially lead to the unequivocal conclusion that the petitioner does not deserve the concession of anticipatory bail.

9. It is pertinent to mention here that the relief of anticipatory bail is aimed at ensuring personal liberty of an individual. However, while deciding a plea for grant of anticipatory bail, the Court has to strike a balance between safeguarding individual rights and protecting societal interest. The Court must also consider the gravity of the offence; the role attributed to the petitioner; the impact on the Society and the need for fair and free investigation. The relief must not unduly hamper the rights of the investigating agency to conduct free, fair and impartial investigation. 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 Hon'ble 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, the nature of the offence and the financial transactions involved, it may not be possible for the investigating agency to unravel the entire truth if the petitioner is armed with a protective order. Moreover, it is the specific stand of the State that the custodial interrogation is necessary to take the investigation to its logical end and to conclude fair and meaningful investigation.

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

- (i) The instant petition is devoid of merits and is hereby dismissed.
- (ii) Nothing said hereinabove shall be deemed to be an expression of opinion upon merits of the case/investigation.
- (iii) Pending application(s), if any, shall also stand disposed off.

(SUMEET GOEL)
JUDGE

April 16, 2026
Ajay

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