



IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

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CRM-M-25230-2026 (O&M)

Date of decision : 12.05.2026

Deepa Rani

..... Petitioner(s)

VERSUS

Mamtesh

..... Respondent(s)

CORAM: HON'BLE MR. JUSTICE SURYA PARTAP SINGH

Present: Mr. Ashish Grewal, Advocate for the petitioner.

Mr. Aditya Narayan Arya Garg, Advocate for respondent.

SURYA PARTAP SINGH, J. (Oral)

This petition for pre-arrest bail is the second petition filed by the petitioner under Section 482 of 'the Bharatiya Nagarik Suraksha Sanhita, 2023'. It has been filed with regard to a case arising out of Complaint Case No.COMI/25 of 2017 dated 03.02.2017, for the commission of offence punishable under Sections 420, 467, 468, 471, 120B, 34 and 506 of Indian Penal Code, 1860 (corresponding to Sections 318, 336, 337, 338, 61, 3(5), 351 of Bharatiya Nyaya Sanhita, 2023), which is pending in the Court of learned Judicial Magistrate First Class, Yamuna Nagar, hereinafter being referred to as 'trial Court' only.

2. In nut-shell, the facts emerging from record are that the abovementioned complaint has been filed against the petitioner with brief allegations that petitioner was owner of a house which she sold to the complainant under a wrong declaration that the house was free from all encumbrances, and that later on it transpired that previous owner of the abovesaid house 'Sanjay' had raised a loan against the abovementioned

property and therefore, there was a change upon the abovementioned property.

3. **Notice of motion.**

4. Mr. Aditya Narayan Arya Garg, Advocate for respondent appears on behalf of respondent-State. Hence service of notice upon the State is hereby dispensed with.

5. Heard.

6. It has been contended by learned counsel for the petitioner that the earlier petition was dismissed as withdrawn on 31.10.2025, and that the petitioner is ready to settle the dispute with the complainant and therefore, the matter may be referred to Mediation. It has also been contended by learned counsel for the petitioner that the offence is triable by the Court of Judicial Magistrate and that loan has already been returned.

7. The abovementioned arguments have been controverted by learned counsel for the respondent-complainant. It has been contended by learned counsel for the respondent-complainant that the present petition has been filed with mala-fide intentions and this fact has been concealed that the warrant of arrest has been issued against the petitioner by the learned trial Court. According to learned counsel for respondent-complainant in addition to above, it has also been concealed that when first petition for anticipatory bail, filed by the petitioner, was considered by the Co-ordinate Bench, the petitioner had given an undertaking that petitioner would return a sum of Rs.23 lakh to the complainant, but later on she backed out of her promise. According to learned counsel for the respondent-complainant subsequently, since the petitioner backed out of her commitment, vide order dated 22.09.2025 the abovementioned interim protection was withdrawn and later



on without any liberty, the petition was dismissed as withdrawn on 31.10.2025.

8. The record has been perused carefully.

9. A perusal of record shows that in the present case, following are the relevant factors which are required to be taken into consideration for a decision:-

- i) that this is second petition for anticipatory bail and the report shows that from the date of dismissal of first petition for anticipatory bail there is no significant change in circumstance;
- ii) that in the present petition, this fact has been concealed that petitioner at earlier stage, i.e. in first petition for anticipatory bail, had given an undertaking to pay Rs.23 lakh to the complainant, and later on she backed-out of the abovementioned commitment, made before this Court;
- iii) that it has been concealed that warrant of arrest has been issued against the petitioner;
- iv) that the offence against the petitioner is for the commission of offence punishable under Sections 420, 467, 468, 471, 120B, 34 and 506 of IPC, which is a serious offence.

10. Taking into consideration the cumulative fact of all the abovementioned factors, it is hereby observed that the past conduct of the petitioner renders her ineligible for the benefit of anticipatory bail.

11. As far as the benefit of anticipatory bail is concerned, it is settled principles of law that the Court must be circumspect, while exercising power for grant of anticipatory bail and it should not be granted as a matter of routine. Rather as per law the abovesaid benefit should be

granted only when the Court is convinced that exceptional circumstances exist for the extraordinary remedy.

12. With regard to above, the Hon'ble Supreme Court of India in the case of Srikant Upadhyay v. State of Bihar 2024 SCC OnLine SC 282, has observed that power to grant anticipatory bail is extraordinary power, and that irrespective of the fact that in a number of cases, it has been held that bail is a rule, it cannot; by any stretch of imagination, be said that anticipatory bail is a rule.

13. The Hon'ble Supreme Court of India in the abovementioned case has further observed that rule of anticipatory bail is a question of judicial discretion depending upon the facts and circumstances of each case. According to Hon'ble Apex Court, when called upon to exercise the abovesaid power the Court concerned has to be very cautious, as the grant of interim protection to the accused in serious cases may lead to miscarriage of justice and may hamper the investigation.

14. Similarly, in the case of Nikita Jagganath Shetty alias Nikita Vishwajeet Jadhav v. The State of Maharashtra and Another (Special Leave Petition (Criminal) No. 10255 of 2024, decided on 21.07.2024), the Hon'ble Supreme Court of India has held that anticipatory bail is an exceptional remedy and it ought not be granted in a routine manner. As per the Hon'ble Supreme Court, there must exist strong reasons for extending indulgence of this extraordinary remedy to a person accused of grave offence.

15. In the case of Gurbaksh Singh Sibbia etc. v. State of Punjab 1980 SCC (2) 565, the Hon'ble Supreme Court of India held that:-

- (i) The power under Section 438, Criminal Procedure Code, is of an extraordinary character and must be exercised sparingly in exceptional cases only.
 - (ii) In addition to the limitations mentioned in Section 437, the petitioner must make out a special case for the exercise of the power to grant anticipatory bail.
 - (iii) Where a legitimate case for the remand of the offender to the police custody under Section 167(2) can be made out by the investigating agency or a reasonable claim to secure incriminating material from information likely to be received from the offender under Section 27 of the Evidence Act can be made out, the power under Section 438 should not be exercised.
16. Considering the above-discussed facts and circumstances and the relevant laws, it is hereby observed that no ground exists for invoking the extraordinary jurisdiction to protect the petitioner, by according the benefit of pre-arrest bail. Thus, it is hereby held that the present petition being devoid of merits deserves dismissal. The same is hereby **dismissed**, accordingly.
17. It is, however, clarified that the observations made hereinabove shall not be construed as an expression of opinion on the merits of the case.
18. Since the main petition has been dismissed, pending applications, if any, are rendered infructuous.

(SURYA PARTAP SINGH)
JUDGE

12.05.2026
Vinod

Whether speaking / reasoned	Yes/No
Whether Reportable	Yes/No