



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

211

CRM-M-37121-2025

Date of Decision:19.01.2026

YOGESH KUMAR

.....PETITIONER

Versus

STATE OF HARYANA

..... RESPONDENT

CORAM: HON'BLE MR.JUSTICE SURYA PARTAP SINGH

Present: Mr. Pragyat Bhardwaj, Advocate
for the petitioner.

Mr. Parveen Kumar Aggarwal, Addl. A.G, Haryana.

Mr. Pritpal Singh Nijjar, Advocate with
Mr. Viraj Gandhi, Advocate
for the complainant.

SURYA PARTAP SINGH, J. (Oral):

1. This petition under Section 482 of Bharatiya Nagarik Suraksha Sanhita 2023, hereinafter being referred to as 'BNSS', has been filed for anticipatory bail, in a case arising out of FIR No.484 dated 22.10.2024 under Sections 420, 467, 468, 471, 120-B of Indian Penal Code, Police Station Palam Vihar, District Gurgaon.

2. Briefly stating the facts emerging from record are that a complaint pertaining to present FIR was filed by Yudhishthira Kapur and Mr. Nakul Kapur, both sons of Nirmal Kapur. It was stated by the complainant that their mother Mrs. Nirmal Kapur is owner in possession of the landed property situated in village Daularpur, Nasirabad, District Gurugram. According to



complainant being 89 year old their mother is not in a position to pursue the complaint with regard to her property and therefore, they had filed the complaint.

3. It was alleged by the complainant that on a visit by the lineman of DHBVN, for verification in pursuance of application of petitioner Yogesh Kumar for electricity connection, they came to know that on the basis of a forged Power of Attorney of Mrs. Nirmal Kapur, the petitioner herein had moved an application for electric connection. While alleging that no Power of Attorney was executed by Mrs. Nirmal Kapur in favour of petitioner, and claiming that the alleged Power of Attorney was a forged and fabricated document, the action against the petitioner was sought by the complainant.

4. It is the case of the prosecution that in view of above-mentioned complaint formal FIR for the commission of aforesaid offences was lodged and the investigation taken up.

5. Heard.

6. It has been contended on behalf of petitioner that pursuant to order dated 18.07.2025 passed by this Court, the petitioner, who was afforded the benefit of interim anticipatory bail has joined the investigation, and that for further investigation custodial interrogation of the petitioner is not required.

7. In response to above-mentioned submissions, the learned State counsel being assisted by learned counsel for the complainant has contended that in the present case, the core issue is the genuineness of Power of Attorney relied upon by the petitioner while seeking for electric connection. As per learned State counsel in order to ascertain as to whether the above-mentioned



Power of Attorney is a genuine document or not, the original Power of Attorney is required, but despite joining the investigation on several occasions the petitioner has not provided the original Power of Attorney to the Investigating Officer. As per learned State counsel, the another interesting fact pertaining to the instant case is that, that the document, i.e. the certified copy of Power of Attorney submitted by the petitioner before the authorities of DHBVN does not match with the record being maintained by the office of Registrar, and thus, the recovery of original Power of Attorney from the possession of petitioner is of paramount importance in the present case.

8. While replying to the above-mentioned arguments, the learned counsel for the petitioner has contended that the petitioner is not having the original Power of Attorney, and that whatever the document he had in his possession, he has already handed over to the Investigating Officer. According to learned counsel for the petitioner in fact the petitioner got the above-mentioned Power of Attorney amongst the documents of his father, who passed away in the year 2020. As per learned counsel for the petitioner under bona fide belief, while treating the above-mentioned copy of Power of Attorney to be a true copy, he had applied for electric connection.

9. According to learned counsel for the petitioner, the offence is triable by the Court of Judicial Magistrate, and that the entire evidence to be collected by the Investigating Agency is documentary in nature and therefore, custodial interrogation of the petitioner is not required. In view of above, learned counsel for the petitioner has requested that the order dated 18.07.2025 be made absolute.



10. The record has been perused carefully.

11. A perusal of record shows that in present case, it is claim of the complainant that owner of the property is Smt. Nirmal Kapur, and that she never executed any Power of Attorney in favour of petitioner. Since the claim of the petitioner is otherwise the most crucial fact to be determined in the instant case is as to whether the signatures of Smt. Nirmal Kapur on the Power of Attorney, being relied upon by the petitioner are genuine or not. For the comparison of disputed signature with sample signature of Smt. Nirmal Kapur, the original Power of Attorney is required, but the same has not been handed over by the petitioner. The conduct of the petitioner becomes more doubtful, in view of the fact that as per the claim of the petitioner at the time of execution of Power of Attorney he was only six years old. It fails to continue a prudent mind that a Power of Attorney in favour of a six year old child might have been executed. This grave suspicion is further compounded from the fact that, that the certified copy of Power of Attorney used by the petitioner does not mach with the record being maintained by the office of Registrar, where the disputed Power of Attorney was registered.

12. It is pertinent to mention here that the petitioner is seeking extraordinary remedy by claiming the benefit of anticipatory bail. With regard to such relief, the Hon'ble Supreme Court 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 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 Sibba 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. Taking into consideration the cumulative effect of all the above-mentioned factors in my considered opinion in the present case, the custodial interrogation of the petitioner is of paramount importance in order to unearth the facts behind the execution of above-mentioned Power of attorney. Otherwise also this fact cannot be ignored that the offence for which the petitioner is being prosecuted is serious in nature as the same is punishable with imprisonment for life.

17. Taking into consideration the above mentioned facts and circumstances of the present case, and above-mentioned principles of law discussed above, which squarely covers the factual matrix of the present case, it is hereby held that the petitioner is not entitled for the benefit of anticipatory bail, and that the present petition, being devoid of merits, deserves dismissal. Hence, the present petition is hereby dismissed, accordingly.

(SURYA PARTAP SINGH)
JUDGE

19.01.2026
vipin

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