



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

204

CRM-M-43323-2025

Date of decision : 04.02.2026

LUKMAN

.....PETITIONER

Versus

STATE OF HARYANA

..... RESPONDENT

CORAM: HON'BLE MR.JUSTICE SURYA PARTAP SINGH

Present: Mr. Sauhard Singh, Advocate
for the petitioner.

Ms. Deepali Verma, Asstt. A.G. Haryana.

SURYA PARTAP SINGH, J. (Oral):

1. For the commission of offence punishable under Section 381 [Sections 379 and 407 added later on] of the Indian Penal Code, hereinafter being referred to as 'IPC' only, the FIR No.24 dated 21.01.2022 has been lodged in Police Station Khadki Daula, District Gurugram. In the above-mentioned case, the petitioner is apprehending arrest, and therefore, for the benefit of anticipatory bail he has approached this Court, by virtue of present petition under Section 482 of the Bharatiya Nagarik Suraksha Sanhita, 2023.

2. In nut-shell the facts emerging from record are that the above mentioned FIR came into being at the instance of Hemant Bhardwaj, hereinafter being referred to as 'complainant' only. The complainant moved a



complaint alleging therein that he was posted as Legal Executive in 'Instant Transport Solutions Pvt Ltd.' According to above-named complainant the goods belonging to Amazon company were being transported in their truck, destined for Manesar, Gurugram and when the vehicle reached Bhangrola Warehouse, on suspicion of theft, raised by security personnel during the course of unloading of vehicle, enquiries were made from the driver, who confessed that a theft had taken place. It was also alleged by the above-named complainant that the above-mentioned theft was committed by the drivers of the truck namely Ishtiyak Ali and Wazid.

3. It is the case of the prosecution that in view of above-mentioned information, formal FIR of this case was lodged and the investigation taken up.

4. Reply has been filed by learned State counsel. The same be taken on record.

5. Heard.

6. It has been contended by learned counsel for the petitioner that the petitioner is innocent, who is being harassed by the police merely because one of the co-accused in the above-said case, has nominated the petitioner. According to learned counsel for the petitioner although the petitioner was accorded the benefit of interim anticipatory bail and he has joined investigation yet the Investigating Officer is not satisfied and he is putting undue pressure upon the petitioner. According to learned counsel for the petitioner the offence is otherwise triable by the Court of Judicial Magistrate and nothing is left to be recovered from the possession of petitioner, and therefore, he is entitled for the benefit of anticipatory bail.



7. The learned State counsel has controverted the above-mentioned arguments. According to learned State counsel in the present case a loss of Rs.44,00,000/- has been caused to the company by way of theft, and that there are very specific allegations against the petitioner that a part of stolen goods was sold to the petitioner. According to learned State counsel despite lot of efforts during the course of investigation, the petitioner has not cooperated with the Investigating Officer and therefore, the recovery is yet to take place. The learned State counsel has further contended that in the present case for the purpose of recovery of stolen goods, custodial interrogation of the petitioner is required, and therefore, the petitioner is not entitled for the benefit of anticipatory bail.

8. The record has been perused carefully.

9. At the threshold it is relevant to note 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.

10. 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



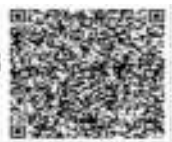
the accused in serious cases may lead to miscarriage of justice and may hamper the investigation.

11. 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.

12. 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.

13. In the light of above-mentioned legal propositions, if the facts and circumstances of the present case are analyzed, it transpires that in the present



case the entire investigation of the present case is resting upon the factum of recovery of stolen goods from the possession of petitioner. The petitioner has already joined investigation but as per allegations of Investigating Officer, he has been non-cooperative throughout.

14. It is relevant to note that custodial interrogation of an accused/suspect is a valuable right of the Investigating Agency and if the denial of custodial interrogation would lead to a situation that the investigation may not get a proper headway, such opportunity should not be denied to the Investigating Agency.

15. In view of the fact that in the given fact situation if the benefit of custodial interrogation of the petitioner is denied to the Investigating Agency, it will scuttle the investigation, it is hereby held that in the peculiar facts and circumstances of this case, the petitioner is not entitled to avail the extraordinary discretion of anticipatory bail.

16. In view of above-mentioned observations, it is hereby held that the present petition is devoid of merits, deserves dismissal. Hence, the same is hereby dismissed, accordingly.

(SURYA PARTAP SINGH)
JUDGE

04.02.2026

<i>vipin</i>	Whether speaking/reasoned	Yes/No
	Whether reportable	Yes/No