



109(2 cases)

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

1. CRM-M-57677-2025

Rajesh KumarPetitioner

versus

State of Punjab Respondent

2. CRM-M-59858-2025

Lakhwinder Saini @ Lucky SainiPetitioner

versus

State of PunjabRespondent

Date of decision: 27.03.2026

CORAM : HON'BLE MR. JUSTICE RAJESH BHARDWAJ

Present :- Ms. Khushboo Sharma, Advocate (in CRM-M-57677-2025)
Mr. Gaurav Kalsi, Advocate (in CRM-M-59858-2025)
for the petitioner(s).

Mr. Raj Karan Singh, AAG, Punjab.

RAJESH BHARDWAJ, J.

1. By way of this common order, this Court intend to decide
abovesaid two petitions as they have arisen out of the same FIR.

2. Prayer in the present petitions is for grant of anticipatory bail
to the petitioners in case FIR No.0129 dated 26.07.2025, under Sections
331(3), 305 of BNS, 2023, registered at Police Station Division No.2,
Pathankot.



3. Succinctly facts of the case are that the FIR was registered on the statement of complainant-Rakesh Singh. It was alleged that he was doing his own business and was constructing another house adjacent to his house in Raghunath Colony Ladochak in which he had kept the articles of his shop. It was further alleged that on 19.07.2025 at about 07:00 AM, he went to his newly built house and saw that some goods were stolen from there, which included the battery of his scooty, two ceiling fans, one electric motor of 02 horsepower and one AC compressor. It was alleged that when he checked the footage of CCTV camera installed in his house/shop, it was found that on 15.07.2025 at about 03:00 PM, two boys have stolen these goods and they came on motorcycle bearing No.PB-06L-0995 make Splendor colour silver and took the stolen goods on their motorcycle. He searched on his own and found that theft has been committed by Rajesh Kumar (petitioner in CRM-M-57677-2025) and Lucky Saini (petitioner in CRM-M-59858-2025). Thus, request was made to take legal action against the culprits. On registration of the FIR, investigation commenced. Apprehending arrest, petitioners approached the Court of learned Sessions Judge, Pathankot praying for grant of anticipatory bail. However, after hearing counsel for both the sides, the same were declined vide orders dated 01.10.2025 and 11.08.2025, respectively. Hence, being aggrieved, petitioners are before this Court by way of filing the present petitions.

4. Learned counsels for the petitioners have contended that the petitioners have been falsely implicated in the present cases. It has been



submitted that the alleged occurrence has taken place on 15.07.2025 whereas, the FIR was registered on 26.07.2025 i.e. after an unexplained delay of 10 days. It has been submitted that the identity of the accused persons who have committed theft and stolen the articles is highly doubtful as the same is not apparently established from the alleged CCTV footage. It has been submitted that the alleged motorcycle was recovered by the police from the house of the petitioners and the said motorcycle was not involved in the commission of offence. He submits that the petitioners have not been attributed any specific overt act and nothing is to be recovered from them. He thus, submits that in the facts and circumstances, the petitioners deserve to be granted anticipatory bail.

5. Status report by way of affidavit of Mr. Jagdish Raj, PPS, Deputy Superintendent of Police, Sub Division City, District Pathankot Haryana has been filed on behalf of respondent-State in the Court today, same is taken on record.

6. Learned State counsel has opposed the submission made by counsel for the petitioners and has submitted that the petitioners, in conspiracy with each other actively participated in the commission of theft and had stolen a battery of scooty, two ceiling fans, one electric motor of 02 horse power and AC compressor from the complainant's newly built house. He submits that due to non-filing of status report, arrest of the petitioners was stayed by this Court vide order dated 02.12.2025. However, he has drawn the attention of this Court to the status report filed and submitted in pursuance to the order dated



02.12.2025, passed by this Court, the investigating agency has verified the CCTV footage and the petitioners are clearly visible in the same. He submits that the petitioners have committed a serious offence. He submits that the investigation is at the initial stage and to unearth the truth, custodial interrogation of the petitioners are required and thus, they does not deserve the concession of bail.

7. On hearing of the counsel for the parties and perusing the record, it is apparent that the petitioners in conspiracy with each other have committed the commission of theft. Perusal of the status report would show that the police officials conducted a raid at house of petitioner-Rajesh Kumar, from where a motorcycle bearing registration NO.PB-06-L-0995 make splendor, silver coloured, was recovered from the southern side of a room and the same was used in the commission of offence. Vide order dated 02.12.2025, passed by this Court, arrest of the petitioners was stayed as no status report was filed regarding complicity of the petitioners in the commission of theft. In compliance of the said order, the CCTV footage of the place of occurrence was examined by the investigating agency and it was found that both the petitioners i.e. Rajesh Kumar and Lakhwinder Saini, were very much present in the said CCTV footage. The interim protection granted to the petitioners was only due to non-filing of status report as the CCTV footage was not examined thus, the same is hereby vacated. This Court finds that evidently the investigation is at threshold.



8. For the consideration of anticipatory bail, the statutory parameters are given under Section 482 (1) & (2) BNSS which reads as under:-

“Direction for grant of bail to person apprehending arrest:

1. *When any person has reason to believe that he may be arrested on an accusation of having committed a non-bailable offence, he may apply to the High Court or the Court of Session for a direction under this section; and that Court may, if it thinks fit, direct that in the event of such arrest, he shall be released on bail.*
2. *When the High Court or the Court of Session makes a direction under sub-section (1), it may include such conditions in such directions in the light of the facts of the particular case, as it may think fit, including-*
 - (i) *a condition that the person shall make himself available for interrogation by a police officer as and when required;*
 - (ii) *a condition that the person shall not, directly or indirectly, make any inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade him from disclosing such facts to the Court or to any police officer;*
 - (iii) *a condition that the person shall not leave India without the previous permission of the Court;*
 - (iv) *such other condition as may be imposed under sub-section (3) of section 480, as if the bail were granted under that section.”*

9. As per the law settled by the Hon'ble Supreme Court, in ***Gurbaksh Singh Sibbia Vs. State of Punjab***, AIR 1980 SC 1632, while granting anticipatory bail, the Court is to maintain a balance between the individual liberty and the interest of society. However, the interest of the society would always prevail upon the right of personal liberty. The relevant part of the judgment is as follows:-



“31. *In regard to anticipatory bail, if the proposed accusation appears to stem not from motives of furthering the ends of justice but from some ulterior motive, the object being to injure and humiliate the applicant by having him arrested, a direction for the release of the applicant on bail in the event of his arrest would generally be made. On the other hand, if it appears likely, considering the antecedents of the applicant, that taking advantage of the order of anticipatory bail he will flee from justice, such an order would not be made. But the converse of these propositions is not necessarily true. That is to say, it cannot be laid down as an inexorable rule that anticipatory bail cannot be granted unless the proposed accusation appears to be actuated by mala fides; and, equally, that anticipatory bail must be granted if there is no fear that the applicant will abscond. There are several other considerations, too numerous to enumerate, the combined effect of which must weigh with the court while granting or rejecting anticipatory bail. The nature and seriousness of the proposed charges, the context of the events likely to lead to the making of the charges, a reasonable possibility of the applicant's presence not being secured at the trial, a reasonable apprehension that witnesses will be tampered with and "the larger interests of the public or the state" are some of the considerations which the court has to keep in mind while deciding an application for anticipatory bail. The relevance of these considerations was pointed out in State v. Captain Jagjit Singh (1962) 3 SCR 622, which, though, was a case under the old Section 498 which corresponds to the present Section 439 of the Code. It is of paramount consideration to remember that the freedom of the individual is as necessary for the*



survival of the society as it is for the egoistic purposes of the individual. A person seeking anticipatory bail is still a free man entitled to the presumption of innocence. He is willing to submit to restraints on his freedom, by the acceptance of conditions which the court may think fit to impose, in consideration of the assurance that if arrested, he shall be enlarged on bail.”

10. The Hon'ble Supreme Court in ***State Vs. Anil Sharma***, (1997) 7SCC 187, held as under:-

“6. We find force in the submission of the CBI that custodial interrogation is qualitatively more elicitation oriented than questioning a suspect who is well ensconced with a favorable 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.”

11. Weighing the facts of the case on the anvil of the law settled, it is apparent that the complicity of the petitioners have been *prima facie* found. Allegations made against the petitioners are serious in nature. Needless to say, the investigation is at the initial stage and in the facts and circumstances, custodial interrogation of the petitioners would be essential and granting anticipatory bail to the petitioners at this stage would scuttle the ongoing investigation.

12. In view of the overall facts and circumstances of the case, the petitioners do not qualify for the grant of anticipatory bail and same are hereby dismissed. Nothing said herein shall be treated as an expression of opinion on the merits of the case.

27.03.2026
m.sharma

(RAJESH BHARDWAJ)
JUDGE

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