



IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

106

CRM-M No.61446 of 2025 (O&M)
Date of Decision:09.03.2026

Avtar Singh

.....Petitioner

Versus

State of Punjab

..... Respondent

CORAM: HON'BLE MR.JUSTICE SURYA PARTAP SINGH

Present: Mr. Surjit Singh Swaich, Advocate for the petitioner.

Mr. Eklavya Darshi, DAG, Punjab.

SURYA PARTAP SINGH, J. (Oral):

1. Seeking for the benefit of anticipatory bail, the instant petition has been filed by the petitioner under Section 482 of the Bharatiya Nagarik Suraksha Sanhita 2023, in a case arising out of the FIR No.133 dated 09.11.2023, under Sections 420 of Indian Penal Code, Police Station Fatehgarh Sahib, District Fatehgarh Sahib.

2. Briefly stating the facts emerging from record are that the FIR of this case came into being at the instance of 'Rachhpal Singh', hereinafter being referred to as 'complainant' only. It was stated by the complainant that with regard to sale of a house a deal was struck between him and 'Avtar Singh' (petitioner herein), and that as per above mentioned deal, an agreement to sell was executed by the petitioner in favour of complainant. According to complainant the total sale consideration was fixed as



Rs.24,00,000/-, and that the entire sale consideration had already been paid by him to the petitioner. It is the case of the complainant that as per contract between him and the petitioner the possession of the house was to be handed over by the petitioner to the complainant upon the completion of the house, but the petitioner failed to do so, and thus, he has been cheated.

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

4. Heard.

5. At the threshold, it has been contended by learned counsel for the petitioner that petitioner has already joined the investigation. It has also been contended by learned counsel for the petitioner that a bare perusal of the contents of FIR itself makes it abundantly clear that the dispute between the parties is of civil nature, and that the appropriate remedy available to the complainant for the redressal of his grievance is to file a suit for specific performance of the contract. In addition to above, the learned counsel for the petitioner has also contended that otherwise also the offence is triable by the Court of Judicial Magistrate and nothing has been left to be recovered from the possession of petitioner, as the entire evidence to be collected by the investigating agency is documentary evidence. While claiming that detention of the petitioner is not likely to serve any purpose the benefit of anticipatory bail has been sought for the petitioner.

6. The learned State counsel being assisted by learned counsel for



the complainant has controverted the above mentioned arguments. According to learned State counsel, one of the crucial aspect which renders the petitioner ineligible for anticipatory bail is his past conduct. According to learned State counsel the petitioner has already been declared a proclaimed offender in two cases, and that he is yet to join proceedings in the abovesaid two cases. As per learned State counsel, if benefit of anticipatory bail is accorded to the petitioner, he will definitely misuse such concession. However, it has been conceded by learned State counsel that petitioner has already joined the investigation in this case.

7. While controverting the above mentioned arguments, the learned counsel for the petitioner has contented that declaring the petitioner to be a proclaimed offender in two other cases cannot have any impact on the outcome of present bail petition. In support of his arguments, the learned counsel for the petitioner has referred to the principles of law propounded by the Hon'ble Supreme Court of India in the case of 'Asha Dubey Vs. The State of Madhya Pradesh', 2025(2) AICLR 155 and by this Court in the case of 'Subhash Vs. State of Haryana', CRM-M No.485 of 2022.

8. The record has been perused carefully.

9. As far as the principles of law laid down in the above mentioned cases are concerned, they are not applicable to the facts and circumstances of the present case. There is nothing on record to show that the petitioner has been wrongly declared a proclaimed offender or that he



was not aware of the criminal proceedings pending against him.

10. As far as the present bail petition is concerned, at the very outset, it is pertinent to mention here that to seek benefit of anticipatory bail one of the most relevant aspect to be taken into consideration, is the past conduct of the petitioner. A perusal of record shows that petitioner is a person, who is already facing prosecution in more than four other cases and, as stated by learned counsel for the complainant, in two cases he has been declared a proclaimed offender. The petitioner's conduct speaks in volumes with regard to lack of respect for the Court, and amount to misuse of process of law

11. It is also relevant to mention here that it is settled principles of law that anticipatory bail is a discretionary relief which should be exercised sparingly. In this regard 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.

12. 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.

13. 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.

14. 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:-

- (1) The power under Section 438, Criminal Procedure Code, is of an extraordinary character and must be exercised sparingly in exceptional cases only.
- (2) 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.
- (3) 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.



15. It the factual matrix of the present case are analysed in the light of above mentioned principles of law it transpires that petitioner is not entitled for the benefit of anticipatory bail. Thus finding no merit, the present petition is hereby dismissed accordingly.

(SURYA PARTAP SINGH)
JUDGE

09.03.2026
Manoj Bhutani

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