



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

Date of Decision: 10.03.2026

CRM-M No.5 of 2025

N.G. Kumar

.....Petitioner

versus

State of Haryana

.....Respondent

CORAM : HON'BLE MR. JUSTICE RAJESH BHARDWAJ

Present :- None for the petitioner.

Mr. Tanuj Sharma, A.A.G., Haryana.

Mr. Rishabh Jain, Advocate
for the complainant (through V.C.).

RAJESH BHARDWAJ, J. (Oral)

1. Present petition has been filed for grant of anticipatory bail to the petitioner in case FIR No.807 dated 26.09.2024 under Sections 406 & 420 of IPC, registered at Police Station Hisar Sadar, District Haryana.
2. Succinctly the facts of the case are that FIR in the present case was registered on the statement of complainant, namely, Sanjay Kumar. It was alleged that the complainant was running business in the name of Company-VSM International Private Limited at Hisar and company deals in agricultural related machinery and equipments through its dealer located in different parts of country. It was further alleged that the present petitioner met the complainant through one of the middle man namely Mr. Juzer, proprietor of Honest Trading Limited, who also deals in same machinery at Chennai. The complainant used to import certain equipments and machinery from China, which was to be supplied by his company to other customers. However, the custom authorities were used



to raise certain objections and create hurdles in such import. The petitioner allured the complainant that he will get cleared all these objections and safely bring out all the machinery items and equipments for the complainant from the custom authorities. The complainant company had already ordered 216 units of Power Weeder from China and the petitioner claimed an amount of Rs.38,70,720/- to get these equipments for the complainant, out of which 10% was immediately paid by the complainant to him. The remaining 60% of the total amount was paid on 25.07.2023 to the petitioner. However, the petitioner failed to own his words and on asking of the complainant, returned an amount of Rs.18 Lac to him. Later, the petitioner again assured the complainant that he had tied up with the custom authorities and now he would get clear all the objections. On this assurance, the complainant paid an amount of Rs.54,20,304/- to the petitioner. On this payment, the petitioner provided some bills of the equipments i.e. Power Weeder, stating that those bills were allegedly provided to him by the custom authorities. However, on verification, the complainant came to know that bills were fake and forged. Even the petitioner also issued a cheque of an amount of Rs.54,20,304/- to the complainant which was also dishonoured. It was alleged that the petitioner had played a fraud upon the complainant on the pretext of getting cleared the objections on the delivery of goods raised by the custom authorities. Thus, request was made to take the legal action against the accused. On registration of FIR, investigation commenced. Apprehending his arrest, the petitioner approached the Court



of learned Additional Sessions Judge, Hisar praying for the grant of anticipatory bail. However, after hearing both the sides, finding no merit in the same, the learned Additional Sessions Judge, Hisar dismissed the petition filed by the petitioner vide his order dated 11.12.2024. Hence being aggrieved, the petitioner is before this Court by way of filing the present petition praying for the grant of anticipatory bail.

3. Today, neither the petitioner is present before this Court nor there is any representation on his behalf.

4. Learned counsel for the complainant has submitted that vide order dated 21.01.2025, counsel for the petitioner submitted that out of the disputed amount, some amount has already been paid and that he is ready to settle the matter. He submits that thereafter, the petitioner paid 2.50 lacs to the complainant to show his *bona fide*. He submits that with the consent of the parties, the matter was referred to the Mediation and Conciliation Centre of this Court vide order dated 18.02.2025 and arrest of the petitioner was stayed. He submits that the matter was settled and as per the settlement arrived, the petitioner was to pay the total outstanding amount of Rs.26 lacs, however, he paid 15 lacs out of the same and assured that the remaining amount would be paid within a further period of 02 weeks and thus, petitioner was directed to join the investigation vide order dated 24.09.2025, passed by this Court. He submits that after having been granted the interim relief, the petitioner kept on seeking adjournment on one pretext or other to deposit the remaining amount and had not complied with the undertaking given before this Court. He



submits thus, he has not honoured the settlement arrived. He submits that the petitioner was never keen to settle the dispute amicably as was submitted before this Court. He thus, submits that petitioner do not deserve the concession of anticipatory bail.

5. Learned State counsel has stated that the petitioner was arrested at Chennai by Hisar Police on 24.11.2024 and he was released from custody by Id. Duty Magistrate at Chennai with a direction to surrender before the Illaqa Magistrate, Hisar within a period of 10 days , however, despite the direction being issued, the petitioner did not surrender within the stipulated period rather moved an application for grant of anticipatory bail before the Court of Id. Additional Sessions Judge, Hisar. He submits that the anticipatory bail application moved by the petitioner was dismissed by the trial Court vide order dated 11.12.2024. He submits that the petitioner allured the complainant to get clearance of the goods from the custom authorities and on this pretext demanded Rs.54,20,304/- from the complainant. He submits that the petitioner was granted interim relief by this Court vide order dated 24.09.2025 on his undertaking given before this Court that he would pay the remaining amount to the complainant, however, on one pretext or the other, adjournments were sought on his behalf and did not compensate the Complainant. He thus, submits that the petitioner has misused the interim relief granted by this Court. He submits that the petitioner had cheated the complainant for a huge amount. He submits that the investigation is at the initial stage and to unearth the truth, custodial



interrogation of the petitioner is required and thus, the petitioner do not deserves the concession of anticipatory bail.

6. On hearing of the counsel for the parties and perusing the record, it is apparent that the petitioner allured the complainant to get clearance from the custom authorities and committed fraud upon the complainant. Perusal of the case file would show that vide order dated 18.02.2025, counsel for the petitioner submitted that the *inter se* dispute is on the basis of some financial transaction and to show his *bona fide*, the petitioner had deposited a sum of Rs.2.50 lacs in the account of the complainant. On the basis of undertaking given by the petitioner before this Court that he would compensate the complainant, the petitioner was directed to join the investigation vide order dated 24.09.2025. It transpires that on the basis of the same, with the consent of the parties, the matter was referred to Mediation and Conciliation Centre and interim relief was granted to the petitioner. However, on one pretext or the other, adjournments are being sought on behalf of the petitioner to clear the outstanding amount. Conduct of the petitioner, failed to convince the Court regarding the failure of the undertakings as given before this Court regarding compensating the complainant. This Court finds that evidently the investigation is at threshold. The interim protection granted to the petitioner was only on the undertaking given before this Court that the petitioner was ready to compensate the complainant but the same has been misused. This Court finds that evidently the investigation is at threshold.



7. The Hon'ble Supreme Court in a recent judgment of '**Gajanan Dattatray Gore Vs. State of Maharashtra, 2025 INSC 913**' has held that bails should not be granted solely on the undertaking given by the accused persons. The relevant part of the same reads as under:-

'Be that as it may, now we have made ourselves very clear that there shall not be a single order that the High Courts and the Trial Courts shall pass for grant of regular bail or anticipatory bail on the basis of any accused or his/her family members giving an undertaking to deposit a particular amount. The plea shall be decided strictly on merits in accordance with law. If the case is made out on merits the court may exercise its discretion and if no case is made out on merits the court shall reject the plea for regular bail or anticipatory bail as the case may be. However, in any circumstances the High Courts or trial courts shall not pass a conditional order of regular bail or anticipatory bail.'

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 petitioner has been *prima facie* found. Needless to say, the investigation is at the initial stage and in the facts and circumstances, custodial interrogation of the petitioner would be essential and granting anticipatory bail to the petitioner at this stage would scuttle the ongoing investigation.

12. In view of the overall facts and circumstances of the case, the petitioner 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.

(RAJESH BHARDWAJ)
JUDGE

10.03.2026

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