

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

206

CRM-M-67817-2025

Date of decision: 06.02.2026

Ajay Kumar Padha

.....Petitioner

Versus

State of Punjab

.....Respondent

CORAM: HON'BLE MS. JUSTICE AARADHNA SAWHNEYPresent: Mr. S.S. Majitha, Advocate for the petitioner.
(through V.C)

Mr. Gautam Thapar, Sr. DAG, Punjab.

AARADHNA SAWHNEY, J (ORAL)

1. Prayer in the instant petition filed under Section 482 of BNSS is for grant of anticipatory bail in case FIR No.78 dated 09.09.2023 under Sections 407,120-B IPC registered at P.S Chabbewal, District Hoshiarpur.

2. Relevant facts as emerging from the documents on record be noticed hereinbelow:

Rakesh Kumar, a commission agent having his own firm under the name and style of R.K. Traders at Sabji Mandi, Jian Chabbewal, District Hoshiarpur set the criminal law in motion by filing a complaint pointing therein that on 26.11.2022, he received an order from Suresh Kumar and Brothers Bagru State Rajasthan for sending 316 bags of green peas weighing about 123 quintals and 42 killos. This consignment was to be sent to Asanlon West Bengal vide bilty No.956. Complainant alleged that Ajay Kumar Padha, who was running transport

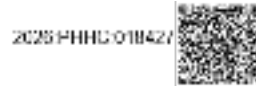
Company at Kapurthala sent a truck bearing registration No.UP12-BT-8980 along



with driver Sonu and owner of the truck namely Noman son of Meer Hasan. Truck did not reach its destination till the filing of the complaint. Inquiries at his own level revealed that Ajay Kumar Padha, Noman-owner of the truck and Sonu, who was deputed as driver in conspiracy with each other had sold the peas resulting in loss to him (complainant) to the tune of Rs.5,52,709/- apart from the loss of Rs.25000/- that had been paid by him for getting fuel filled in the truck. Complainant also pointed out that though he contacted accused on several occasions but they failed to give any satisfactory reply. Rather, now they are threatening to falsely implicate not only him but also the purchasers namely Mukesh and Brothers. They have refused to pay for the loss. On the receipt of complaint, the matter was inquired into. Finding substance in the allegations levelled and after seeking opinion of the District Attorney (Legal), aforesaid FIR was registered.

Apprehending his arrest, present petitioner moved an application for grant of pre-arrest bail. Same came to be dismissed by the learned Addl. Sessions Judge, Hoshiarpur vide order dated 19.11.2025. Aggrieved of which present petition has been filed.

3. Learned counsel for the petitioner contends that the petitioner, a person with absolutely clean antecedents has been falsely implicated in the present case. He has absolutely no role to play in the entire incident, he being neither the owner nor the driver of the truck on which 123 qtls & 42 kg green peas were loaded by the complainant to be sent to Asanlon, West Bengal. It is further the submission of learned counsel that though the incident took place on 26.11.2022, the factum of truck not having reached at the disclosed place came to the notice of the complainant on 28.11.2022 but for reasons best known, the complaint was moved on 17.12.2022 i.e after 20 days. This intervening period was misused by

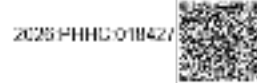


petitioner is not in any way connected/involved with the incident, thus his custodial interrogation is not required as nothing is to be recovered from him. Prayer for allowing the petitioner has been made.

4. Per contra, while opposing the request for grant of pre-arrest bail, learned State counsel referred to status report filed by way of affidavit of Palwinder Singh, DSP, Sub-Division Chabbewal, District Hoshiarpur wherein the role of the petitioner has been highlighted. As per the prosecution, the petitioner had sent Truck No. UP12-BT-8980 along with its driver Sonu and owner Noman to complainant. In the said Truck, the consignment was sent which was supposed to reach Asanlon, West Bengal on 28.12.2022. Truck did not reach at the destination. It also came out during investigation that consignment amounting to Rs.5,52,709/- was sent by the complainant who had also given Rs.25000/- to the driver. Thus in all, complainant suffered a loss of Rs.5,77,709/-.

Learned State counsel contends that repeated notices were issued to the petitioner to join the investigation, who chose to ignore the same. Even warrant of arrest were also issued. Now proclamation proceedings have been initiated, thus as per learned State counsel, presence of petitioner is needed to find out whereabouts of driver and the owner, who are not traceable as also to find out other intricacies of the case. In the light of the facts brought on record, as per learned State counsel, petitioner has not been able to make out a case of exceptional hardship/depravity in his favour entitling him the concession of pre-arrest bail.

5. Before expressing any opinion on the merits of the rival contentions raised by learned counsel for the parties, it would be appropriate to refer to certain relevant judgments of Hon'ble Supreme Court, wherein the factors to be kept in mind while dealing with an application for grant of anticipatory bail, have been



Hon'ble the Supreme Court in "**P. Chidambaram vs. Directorate of Enforcement, ((2020) 13 SCC 791)**", has observed as under:-

"67. Ordinarily, arrest is a part of procedure of the investigation to secure not only the presence of the accused but several other purposes. Power under Section 438 Cr.P.C 1973 is an extraordinary power and the same has to be exercised sparingly. The privilege of the pre-arrest bail should be granted only in exceptional cases. The judicial discretion conferred upon the court has to be properly exercised after application of mind as to the nature and gravity of the accusation; possibility of applicant fleeing justice and other factors to decide whether it is a fit case for grant of anticipatory bail. Grant of anticipatory bail to some extent interferes in the sphere of investigation of an offence and hence, the court must be circumspect while exercising such power for grant of anticipatory bail. Anticipatory bail is not to be granted as a matter of rule and it has to be granted only when the court is convinced that exceptional circumstances exist to resort to that extraordinary remedy."

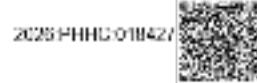
Hon'ble the Supreme Court while deciding the case titled as "**Ms. X Vs. The State of Maharashtra and another**", (2023 SCC Online SC 279) held as under:-

"11.1. We propose to take a quick look at the considerations that ought to govern grant of anticipatory bail. There are a line of decisions of this court that have underscored the fact that while deciding an application for bail, the court ought to refrain from undertaking a detailed analysis of the evidence, the focus being on the prima facie issues including consideration of some reasonable grounds that would go to show if the accused has committed the offence or those facts that would reflect on the seriousness of the offence. The self-imposed restraint on delving deep into the analysis of the evidence at that stage is for valid reasons, namely, to prevent any prejudice to the case set up by the prosecution or the defence likely to be taken by the accused and to keep all aspects of the matter open till the trial is concluded."

In **Prasanta Kumar Sarkars case (supra) (Prasanta Kumar Sarkar Vs. Ashish Chatterjee and another)**, a Division Bench of this Court had highlighted the factors that ought to be borne in mind while considering the anticipatory bail application and had stated that :-

9. We are of the opinion that the impugned order is clearly unsustainable.

It is trite that this Court does not, normally, interfere with an order



passed by the High Court granting or rejecting bail to the accused. However, it is equally incumbent upon the High Court to exercise its discretion judiciously, cautiously and strictly in compliance with the basic principles laid down in a plethora of decisions of this Court on the point. It is well settled that, among other circumstances, the factors to be borne in mind while considering an application for bail are:

- (i) whether there is any prima facie or reasonable ground to believe that the accused had committed the offence;*
- (ii) nature and gravity of the accusation;*
- (iii) severity of the punishment in the event of conviction;*
- (iv) danger of the accused absconding or fleeing, if released on bail;*
- (v) character, behaviour, means, position and standing of the accused;*
- (vi) likelihood of the offence being repeated;*
- (vii) reasonable apprehension of the witnesses being influenced; and*
- (viii) danger, of course, of justice being thwarted by grant of bail.”*

In Nikita Jagganath Shetty @ Nikita Vishwajeet Jadhav vs. The State of Maharashtra and another, 2025 AIR SC 3375, the Hon’ble Supreme Court held that “Anticipatory bail is an exceptional remedy and ought not to be granted in a routine manner.”

6. Factual aspects of the case leading to the registration of the case have already been noticed in para 2 of the order. In view of submissions advanced by learned State counsel, this Court is of the opinion that custodial interrogation of the petitioner is definitely required to find out whereabouts of the owner and driver of the truck, which are untraceable till date.

Agreeing with the submissions made by learned State counsel, this Court is of the opinion that the petitioner has failed to make out a case for grant of pre-arrest bail.

Dismissed.

06.02.2026
manoj

(AARADHNA SAWHNEY)
JUDGE

Whether speaking/reasoned: Yes/No
Whether Reportable: Yes/No