

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

2026 PHHC 000004



102

CRM-M-70757-2025

Hakam Khan

.....Petitioner(s)

Versus

State of Haryana

.....Respondent(s)

Decided on : 21.01.2026

Date of uploading: 22 01.2026

CORAM: HON'BLE MR. JUSTICE SUMEET GOEL

Present: Ms. Rosi, Advocate for the petitioner.

Ms. Mahima Yashpal Singla, Senior DAG, Haryana.

SUMEET GOEL, J. (Oral)

1. Present petition has been filed under Section 482 of Bharatiya Nagarik Suraksha Sanhita, 2023 (hereinafter to be referred as 'the BNSS') for grant of pre-arrest/anticipatory bail to the petitioner in case bearing FIR No.242 dated 17.04.2024, registered for the offences punishable under Section 34, 379-A IPC (Section 379-B added later on and Section 379-A deleted later on), at Police Station Samalkha, District Panipat.

2. The gravamen of the FIR in question reveals that the present case was registered the present case was registered on 17.04.2024 on the basis of a complaint made by the complainant, Jasmer Singh, wherein it was alleged that on 15.04.2024 he had purchased a trolly bearing registration No. HR-84-4155 from one Anup son of Kamal Singh. It was further alleged that on 17.04.2024, at about 02:00 a.m., when he reached near the Samalkha Gera weighing scale while driving the said trolly, a blue coloured Baleno car bearing registration No. HR-26ET-0779 stopped near his trolly. Three youths alighted from the said vehicle, forcibly stopped the trolly, made the

complainant alight, assaulted him and snatched away the trolly. It was

further alleged that one of the assailants called an accomplice by the name of “Rizwan” to drive the trolly, who then drove away the same. Upon these set of allegations, the present FIR has been registered against the accused persons.

3. Learned counsel for the petitioner has submitted that the petitioner is an innocent person and has been falsely implicated in the present case. It has further been contended that the petitioner has been nominated in the FIR in question by co-accused in the disclosure statement. Learned counsel appearing for the petitioner further argued that one co-accused namely has already been granted the concession of bail by the trial Court. Learned counsel asserts that in the instant case, the FIR fails to include material facts, which further raised questions about its credibility and fairness. Moreover, the custodial interrogation should not be used as a punitive measure and is justified only when absolutely necessary for the recovery of material evidence. Furthermore, the petitioner is ready to join the investigation and hence no useful purpose would be served by sending him behind the bars. It is lastly submitted by the learned counsel that the present petition be allowed and the petitioner be granted the concession of the anticipatory bail.

4. Learned State Counsel has filed reply by way of affidavit of ASI Dinesh Kumar in Court today, which is taken on record. He has vehemently opposed the grant of anticipatory bail to the petitioner by raising arguments in tandem with the said reply, relevant whereof reads thus:

“ 3. That the petitioner has been found to be involved in eight other FIRs as per the records verified by the concerned police official on the ICJS Portal and records of the Police Station Samalkha, Panipat, which are as under-

(i) FIR No. 171 dated 05/05/2015 u/s 379, 411 of IPC, P.S Sadar Tauru, Nuh. The petitioner was declared as proclaimed person vide order dated 02/07/2019 passed by Ld. A.C.J.M, Mewat.

(ii) FIR No. 165 dated 04/04/2017 u/s 379 of IPC, P.S Sector-31, Faridabad. The petitioner has been declared as proclaimed person vide order dated 10/12/2025.

(iii) FIR No. 130 dated 15/03/2017 u/s 379 of IPC, P.S Surajkund, Faridabad. The petitioner has been declared proclaimed person vide order dated 30/11/2024.

(iv) FIR No. 114 dated 27/03/2017 u/s 379 of IPC, P.S SGN Nagar, Faridabad. The petitioner has been declared as proclaimed person in this case vide order dated 30/04/2019.

(v) FIR No. 125 dated 22.07.2022 u/s 379, 34 of IPC, P.S Juthlana, Yamunanagar. The petitioner was convicted in this case vide order 08/11/2023 and was ordered to undergo already undergone period vide order dated 08/11/2023

(vi) FIR No. 127 dated 05/07/2022 w/s 379 of IPC, P.S Partap Nagar, Yamunanagar. This case is pending trial.

(vii) FIR No. 109 dated 25/02/2022 u/s 279, 337 of IPC, PS Sadar, Nuh. The petitioner has not joined in the investigation of case. Untrace report was prepared in this case and was submitted before the Ld. Trial Court, Nuh which was accepted vide order dated 31-08-2024.

(viii) FIR No. 714 dated 28/12/2018 under sections 174-A of IPC/registered at PS Sector-31, Faridabad. The petitioner has not joined in the investigation of case, untrace report was prepared in this case on 04-04-2019 and was submitted and was accepted by the Ld. Trial Court, ACJM, Faridabad vide order dated 27/05/2024.

True Copy of relevant ICJS Records are annexed herewith as Annexure R-1 Colly.

4. That it is pertinent to mention here that cash reward of Rs. 5,000/- has also been declared qua the petitioner by the Inspector General of Police, Karnal Range, Karnal. True Copy of declaration is annexed herewith as Annexure R-2.”

Learned State counsel has, accordingly, argued that the allegations against the petitioner are grave and serious in nature of snatching. Learned State Counsel submits that the petitioner is a member of gang and specific allegations have been levelled against the petitioner and his co-

accused. She has further argued that the petitioner is a habitual offender is stated to be involved in eight similar like FIRs and a cash reward of Rs.5,000/- has also been declared upon him. The investigation qua the FIR in question is still ongoing. Learned State counsel has iterated that the custodial interrogation of the petitioner is imperative for the purpose of effective and fair investigation and to unearth the case of the prosecution. According to learned State counsel, in case the petitioner is granted the concession of pre-arrest, at this stage, it may impede the ongoing investigation.

5. I have heard the learned counsel for the rival parties and have gone through the available record of the case.
6. It would be apposite to refer herein to a judgment of the Hon’ble Supreme Court titled as ***Kishor Vishwasrao Patil vs. Deepak Yashwant Patil and another*** passed in ***SLP(Crl) No.1125-2022***, relevant whereof reads as under:

“74. Ordinarily, arrest is a part of the process of the investigation intended to secure several purposes. There may be circumstances in which the accused may provide information leading to discovery of material facts and relevant information. Grant of anticipatory bail may hamper the investigation. Pre-arrest bail is to strike a balance between the individual's right to personal freedom and the right of the investigating agency to interrogate the accused as to the material so far collected and to collect more information which may lead to recovery of relevant information.

xxx	xxx	xxx	xxx
xxx	xxx	xxx	xxx

75. Observing that the arrest is a part of the investigation intended to secure several purposes, in ***Adri Dharan Das v. State of W.B. [Adri Dharan Das v. State of W.B., (2005) 4 SCC 303 : 2005 SCC (Cri) 933]*** , it was held as under : (SCC p. 313, para 19)

“19. Ordinarily, arrest is a part of the process of investigation intended to secure several purposes. The accused may have to be questioned in detail regarding various facets of motive, preparation, commission and

aftermath of the crime and the connection of other persons, if any, in the crime. There may be circumstances in which the accused may provide information leading to discovery of material facts. It may be necessary to curtail his freedom in order to enable the investigation to proceed without hindrance and to protect witnesses and persons connected with the victim of the crime, to prevent his disappearance, to maintain law and order in the locality. For these or other reasons, arrest may become an inevitable part of the process of investigation. The legality of the proposed arrest cannot be gone into in an application under Section 438 of the Code. The role of the investigator is well defined and the jurisdictional scope of interference by the court in the process of investigation is limited. The court ordinarily will not interfere with the investigation of a crime or with the arrest of the accused in a cognizable offence. An interim order restraining arrest, if passed while dealing with an application under Section 438 of the Code will amount to interference in the investigation, which cannot, at any rate, be done under Section 438 of the Code.”

76. In ***Siddharam Satlingappa Mhetre v. State of Maharashtra*** [***Siddharam Satlingappa Mhetre v. State of Maharashtra, (2011) 1 SCC 694 : (2011) 1 SCC (Cri) 514***], the Supreme Court laid down the factors and parameters to be considered while dealing with anticipatory bail. It was held that the nature and the gravity of the accusation and the exact role of the accused must be properly comprehended before arrest is made and that the court must evaluate the available material against the accused very carefully. It was also held that the court should also consider whether the accusations have been made only with the object of injuring or humiliating the applicant by arresting him or her.

77. After referring to ***Siddharam Satlingappa Mhetre*** [***Siddharam Satlingappa Mhetre v. State of Maharashtra, (2011) 1 SCC 694 : (2011) 1 SCC (Cri) 514***] and other judgments and observing that anticipatory bail can be granted only in exceptional circumstances, in ***Jai Prakash Singh v. State of Bihar*** [***Jai Prakash Singh v. State of Bihar, (2012) 4 SCC 379 : (2012) 2 SCC (Cri) 468***], the Supreme Court held as under : (SCC p. 386, para 19)

“19. Parameters for grant of anticipatory bail in a serious offence are required to be satisfied and further while granting such relief, the court must record the reasons therefor. Anticipatory bail can be granted only in exceptional circumstances where the court is prima facie of the view that the applicant has falsely been enroled in the crime and would not misuse his liberty. (See ***D.K. Ganesh Babu v. P.T. Manokaran*** [***D.K. Ganesh Babu v. P.T. Manokaran, (2007) 4 SCC 434 : (2007) 2 SCC (Cri) 345***], ***State of Maharashtra v. Mohd. Sajid Husain Mohd. S. Husain*** [***State of***

Maharashtra v. Mohd. Sajid Husain Mohd. S. Husain, (2008) 1 SCC 213 : (2008) 1 SCC (Cri) 176] and Union of India v. Padam Narain Aggarwal [Union of India v. Padam Narain Aggarwal, (2008) 13 SCC 305 : (2009) 1 SCC (Cri) 1].)”

Economic offences

78. Power under Section 438 CrPC being an extraordinary remedy, has to be exercised sparingly; more so, in cases of economic offences. Economic offences stand as a different class as they affect the economic fabric of the society. In Directorate of Enforcement v. Ashok Kumar Jain [Directorate of Enforcement v. Ashok Kumar Jain, (1998) 2 SCC 105 : 1998 SCC (Cri) 510], it was held that in economic offences, the accused is not entitled to anticipatory bail.”

15. In Sushila Agrawal and others v. State (NCT of Delhi) and Another reported in (2020) 5 SCC 1, Constitution Bench of this Court held that while considering an application for grant of pre-arrest bail the Court has to consider the nature of the offence, the role of the person, the likelihood of his influencing the course of investigation, or tampering with evidence or likelihood of fleeing justice. The Court held:-

“92.4. Courts ought to be generally guided by considerations such as the nature and gravity of the offences, the role attributed to the applicant, and the facts of the case, while considering whether to grant anticipatory bail, or refuse it. Whether to grant or not is a matter of discretion; equally whether and if so, what kind of special conditions are to be imposed (or not imposed) are dependent on facts of the case, and subject to the discretion of the court.”

7. As per the allegations set forth in the FIR, serious charges have undeniably been levelled against the present petitioner. The allegations against the petitioner are grave and serious in nature of snatching. As per the reply filed by the State, the petitioner is shown to be involved in eight more FIRs of similar offence and is a habitual offender. As per submissions made by learned State counsel, the investigation is still at a preliminary stage, and custodial interrogation of the present petitioner is necessary to unravel the truth. The learned counsel for the petitioner has failed to demonstrate that the case registered against him is false.

No cause *nay* plausible cause has been shown, at this stage, from which it can be deciphered that the petitioner has been falsely implicated into the present FIR.

8. It is befitting to mention here that while considering a plea for grant of anticipatory bail, the Court has to equilibrate between safeguarding individual rights and protecting societal interest(s). The Court ought to reckon with the magnitude and nature of the offence; the role attributed to the accused; the need for fair and free investigation as also the deeper and wide impact of such alleged iniquities on the society. It is imperative that every person in the Society can expect an atmosphere free from foreboding & fear of any transgression. At this stage, there is no material on record to hold that *prima facie* case is not made out against the petitioner. The material which has come on record and preliminary investigation, appear to be established a reasonable basis for the accusations. Thus, it is not appropriate to grant anticipatory bail to the petitioner, as it would necessarily cause impediment in effective investigation. In ***State v. Anil Sharma*** [***State v. Anil Sharma, (1997) 7 SCC 187 : 1997 SCC (Cri) 1039***], the Supreme Court held as under : (SCC p. 189, para 6)

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

9. In view of the gravity of the allegations and nature of offence, since the necessity of custodial interrogation would arise for a fair and thorough investigation, this Court is of the considered opinion that the petitioner does not deserve the concession of anticipatory bail in the factual matrix of the case in hand. Moreover, custodial interrogation of the petitioner is necessary for an effective investigation & to unravel the truth. The petition is, thus, devoid of merits and is hereby dismissed.
10. Nothing said hereinabove shall be deemed to be an expression of opinion upon merits of the case/investigation.
11. Pending application(s), if any, shall also stand disposed off.

(SUMEET GOEL)
JUDGE

January 21, 2026
Naveen

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