



IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

101

CRM-M-37208-2025
Date of Decision- 17.07.2025

VARUN KUMAR SHARMA

.....PETITIONER

Versus

STATE OF HARYANA

..... RESPONDENT

CORAM: HON'BLE MR. JUSTICE SANDEEP MOUDGIL

Present: Mr. N.C.Kinra, Advocate,
Mr. Harsh Kinra, Advocate and
Mr. Apoorva Kinra, Advocate
for the petitioner.

Mr. Chetan Sharma, DAG, Haryana.

SANDEEP MOUDGIL, J (ORAL)

1. Relief Sought

This petition has been filed under Section 482 of BNSS for anticipatory bail to the petitioner in FIR No. 209 dated 11.06.2025 under Sections 316(2), 318(3), 318(4), 61(2) of the BNS at P.S. Sector 8, Faridabad.

2. Prosecution story, set up in the present case as per the version in the FIR reads as under :-

'The police Commissioner, Sector 21C, Faridabad. Subject:- Application for taking legal action against accused No.1, Varun Kumar Sharma s/o Raj Kumar Sharma Proprietor M/S Vraj International, Mob No. 9873584894, Accused No. 2 Raj Kumar Sharma, Mob No. 9891125645 rs/o H. No. 2389, Sector 9, Faridabad. That the applicant has been



running his factory for the last 30 years. Accused No.2 is known to the applicant. Accused No.2 deals in the purchase of old machineries from the companies and sell it off. In this work, his son who is accused No.1, is also his associate. Both the accused used to say since September, 2024 that there is a proposal to get a contract with a big Company in Bawal, Haryana for purchase and sale of old machines and that they have no enough money to get the contract. You may invest your money with us and your money would be doubled in three months with profits. I narrated this to my friend Ashok Mangla r/o Sector 17, Faridabad and we both agreed for it and my friend Ashok Mangla got ready to invest money. 2. That we believed the accused and I paid a sum of Rs. 30,00,000/- by means of cheque No. 000229 dated 26.9.2024 from the account of my wife Kalpana Mittal having her account in Kotak Mahendra Bank, Sector 16, Faridabad and gave the same to the accused. This cheque was received by the accused in the name of their firm Vraj International. The applicant got a cheque of Rs. 50,00,000/- from his friend Ashok Mangla from his account with Indian Bank, Neelam Bata Chowk in the name of firm Vraj International of the accused. The applicant gave Rs. 50,00,000/- from the account of his friend Ashok Mangla with Indian Bank, Neelam Bata Road Faridabad by means of Cheque No. 766608 dated 26.9.2024. The accused got the aforesaid cheques credited in the account of their firm. Thereafter, the accused got the agreement executed with the Company at Bawal, Haryana for the purchase of old machine for a sum of Rs. 7,01,11,000/- and they showed us with a copy of the same. Thereafter, the accused raised a demand of more money. Then I paid a sum of Rs. 1,30,00,000/- to the accused from the account of my wife Kalpana Mittal with Kotak Mahendra Bank Sector 16, Faridabad by means of Cheque No. 000230 dated 23.10.2024. A sum of Rs. 85,00,000/- were paid by Ashok Mangla from his account to the accused with Indian Bank by means of Cheque No. 766609 dated 25.10.2024. These cheques were got by the accused in the name of their firm. Thereafter, the applicant got paid a sum of Rs. 10,00,000/- to the accused after getting it from Ashok Mangla by means of Cheque No. 622313 dated 18.11.2024 and further, a sum of Rs.



10,00,000/- were paid by the applicant to the accused from the account of his Company with HDFC Bank, Sector 11, Faridabad by means of Cheque No. 002255 dated 13.12.2024. All these cheques were got credited by the accused in their firm Vraj International having its account with Indian National Bank. In this way, the accused got a sum of Rs. 170,00,000/- from the account of my wife and a sum of Rs. 14500000/- from the account of Ashok Mangla; totaling Rs. 3,15,00,000/-.

3. That the accused said to us that they would return our money along with profits uptill January, 2025 but the accused did not pay me any money upto January, 2025. When we demanded our money from the accused along with profits, the accused remitted Rs. 3,00,000/- on 11.2.2025 in the account of my Company. Besides this, they have not paid anything to us. Thereafter, I asked the accused repeatedly to return my money along with profits but the accused initially put off the matter and thereafter, on 20.3.2025, he refused to pay back the money and they misbehaved us. We paid the money to the accused on belief and since they were our old accused have usurped our money and cheated us by committing fraud by alluring us to give profits The accused had ill-intention from before. Therefore, sir, it is prayed that strict action may be taken against the accused and our money may be got returned from the accused. I shall be grateful. Dated 28.3.2025. Sd/- Mahesh applicant Mahesh Mittal s/o Late Sh. O.P. Mittal r/o H. No. D-59, Sector 11, Faridabad now r/o H. No. 3999, Sector 9 Faridabad Mob No. 9811011552.

At P.S: At this stage, the application bearing No. 400/Public Hearing dated 5.5.2025 on behalf of Mahesh Mittal s/o Late Sh. O.P. Mittal r/o H. No. 10D-59, Sector 11, District Faridabad now r/o H. No. 399, Sector 9, District Faridabad. After inquiry by I.O. of EOW Cell Ballabhgarh, Faridabad as per the orders of the higher officers has been received for registration of the FIR and from the contents of the application, the offences under sections 316 (2), 318 (3), 318 (4) 61 (2) B.N.S. 2023 are made out and therefore, the aforesaid case for the aforesaid offences was registered and the copies prepared through computer are being sent to the concerned higher officers by way of Daak. A copy of the police file along

with original application and inquiry report is being sent for investigation. I/C EOW Cell BLB/FBD are being sent by Daak. Note:- This case is being registered on the CCTNS ID of ASI Vinod 1157/FBD. This case has been registered in the presence of ASI Hopender 2162/FBD PS Sec-8. Note: The FIR has been registered late on account of down of the CCTNS server.'

3. Contentions

On behalf of the petitioners

Counsel for the petitioner contends that the petitioner has been falsely implicated in the present case as the a civil dispute has been given a criminal colour wherein the complainant has already taken some machinery and has received money by cash as well as through RTGS and for the rest of the amount, the petitioner seeked some time but the complainant bumped in his office on 11.03.2025 and created a ruckus. He further contends that as a result, a complaint was filed against the complainant and the instant FIR is a counter blast to that complaint only.

On behalf of the state and complainant

Counsel for the State, who is present in the court accepts notice on behalf of the respondent-state and prays for dismissal of grant of bail by submitting that the petitioner along with his father(co accused) has cheated the complainant to the tune of Rs.3.15 Crore by inducing him to make the investment in their business by alluring for the profits therefore does not deserve the concession of bail.

Mr. Sukhandeep Singh, Advocate has put in appearance on behalf of the complainant and has filed the Vakalatnama, which is taken on record. He argues that the complainant has been duped to a hefty amount of his hard earned

money for which the court should not take a lenient view and dismiss the bail application for recovery of the money of the complainant.

4. **Analysis and Conclusion**

From the perusal of the record in hand, it has come forth that allegedly, the petitioner along with his father induced the complainant to make investment in their business by showing good returns wherein the money was invested by the petitioner in purchasing machines from M/s Max Auto Private Ltd and an agreement was also entered with them in this regard on 30.09.2024. It is an admitted case of the petitioner that he along with his father had promised the complainant that he will be paid proportionate share of profits after selling the machines but they did not pay the same stating that 50% of the machines are still lying in their office/godown which fact when countered by the trial court, came out to be false as the investigating officer on his visit to the petitioner's godown made an inventory which revealed that only 76 machines are lying at the godown instead of 116. Therefore, the mala fide intention of the petitioner was in existence since the inception thereby fulfilling the ingredient of cheating. It would be apposite at this stage to mention section 318 BNS, which is reproduced herein below:-

(1)Whoever, by deceiving any person, fraudulently or dishonestly induces the person so deceived to deliver any property to any person, or to consent that any person shall retain any property, or intentionally induces the person so deceived to do or omit to do anything which he would not do or omit if he were not so deceived, and which act or omission causes or is likely to cause damage or harm to that person in body, mind, reputation or property, is said to "cheat".

(2)Whoever cheats shall be punished with imprisonment of either description for a term which may extend to three years, or with fine, or with both.

(3) Whoever cheats with the knowledge that he is likely thereby to cause wrongful loss to a person whose interest in the transaction to which the cheating relates, he was bound, either by law, or by a legal contract, to protect, shall be punished with imprisonment of either description for a term which may extend to five years, or with fine, or with both.

(4) Whoever cheats and thereby dishonestly induces the person deceived to deliver any property to any person, or to make, alter or destroy the whole or any part of a valuable security, or anything which is signed or sealed, and which is capable of being converted into a valuable security, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

Having perused the record in hand as well as the ingredients of section 318 BNS, it can be culled out that the petitioner along with his father had conspired to make a deceitful scheme by making a false promise of investing in a business and getting the profit at a double amount in order to swallow the amount mentioned above from the complainant which clearly shows the *mens rea* from the inception of the agreement.

Taking into consideration the factual aspects and the allegations involved, the court by no stretch of imagination can be lenient to grant bail to the petitioners who have allegedly duped the complainant of his hard earned money. Therefore, indeed to unearth the truth, custodial interrogation of the petitioner is required.

Moreso, it is a settled proposition of law that power exercisable under Section 482 B.N.S.S, 2023, is somewhat extraordinary in character and it is to be exercised in exceptional cases with utmost caution and sparingly. The Hon'ble Supreme Court in *State Vs. Anil Sharma : (1997) 7 SCC 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 information 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.”

In ***Sushila Aggarwal Vs. State (NCT of Delhi), (2020) 5 SCC 1***,

Hon’ble Supreme Court has enunciated the considerations that must govern the grant of anticipatory by holding as under: -

92.3...While considering an application (for grant of anticipatory 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 (including intimidating witnesses), likelihood of fleeing justice (such as leaving the country), etc.

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.”

Similarly, in *Neeru Yadav Vs. State of UP & Arr., (2016) 15 SCC 422*, it was held by Hon’ble Supreme Court as under: -

“11. It is the duty of the Court to take into consideration certain factors and they basically are,

(i) the nature of accusation and the severity of punishment in cases of conviction and the nature of supporting evidence, (ii) reasonable apprehension of tampering with the witnesses for apprehension of threat to the complainant, and

(iii) Prima facie satisfaction of the court in support of the charge.”

5. Conclusion

In the light of above mentioned facts and the spectrum of law discussed by the Apex Court with regard to the grant of anticipatory bail, the court does not deem fit to grant anticipatory bail to the petitioner. This petition being devoid of merits stands dismissed.

However it is made clear that anything observed herein above shall have no bearing in the mind of the trial court while adjudicating the matter in accordance with law.

Ordered accordingly.

**(SANDEEP MOUDGIL)
JUDGE**

17.07.2025
anuradha (V)

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



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(2)Whoever cheats shall be punished with imprisonment of either description for a term which may extend to three years, or with fine, or with both.

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Taking into consideration the factual aspects and the allegations involved, the court by no stretch of imagination can be lenient to grant bail to the petitioners who have allegedly duped the complainant of his hard earned money. Therefore, indeed to unearth the truth, custodial interrogation of the petitioner is required.

Moreso, it is a settled proposition of law that power exercisable under Section 482 B.N.S.S, 2023, is somewhat extraordinary in character and it is to be exercised in exceptional cases with utmost caution and sparingly. The Hon'ble Supreme Court in *State Vs. Anil Sharma : (1997) 7 SCC 187* held as under:-

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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

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Similarly, in *Neeru Yadav Vs. State of UP & Arr., (2016) 15 SCC 422*, it was held by Hon’ble Supreme Court as under: -

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(iii) Prima facie satisfaction of the court in support of the charge.”*

5. Conclusion

In the light of above mentioned facts and the spectrum of law discussed by the Apex Court with regard to the grant of anticipatory bail, the court does not deem fit to grant anticipatory bail to the petitioner. This petition being devoid of merits stands dismissed.

However it is made clear that anything observed herein above shall have no bearing in the mind of the trial court while adjudicating the matter in accordance with law.

Ordered accordingly.

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