

101+219

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-62292-2024 (O&M)

Date of decision: 02.04.2025

Paramjit Singh Kalsi

.....Petitioner

versus

State of Punjab

..... Respondent

CORAM : HON'BLE MR. JUSTICE RAJESH BHARDWAJ

Present :- Mr. Narinder Singh Dadwal, Advocate
for the petitioner.

Mr. J.S. Arora, DAG, Punjab.

Mr. Gurcharan Dass, Advocate
for the complainant.

RAJESH BHARDWAJ, J.

CRM-13633-2025

Application is allowed as prayed for.

Brief synopsis dated 01.04.2025 on behalf of respondent

No.2 is taken on record.

CRM-M-62292-2024

1. Petitioner has approached this Court praying for grant of anticipatory bail to him in case FIR No.0187 dated 04.09.2024, under Sections 406, 420, 120-B of IPC, registered at Police Station Division No.6, Police Commissionerate, Ludhiana.

2. Succinctly facts of the case are that the FIR in the present case has been registered on the statement of complainant-Karamjit Singh. It has been alleged that his brother-in-law Gurleen Singh was running a Dhaba in the name and style of Patiala A-1 and there was a property measuring 112 square yards of Paramjit Singh (petitioner) son of Naranjan Singh which was required by his brother-in-law, Gurleen Singh but

Paramjit Singh did not want to sell the property to his brother-in-law. One customer namely, Mandeep Singh had come to the Dhaba of his brother-in-law who told his brother-in-law that he was a property dealer and could help him in purchasing the property of Paramjit Singh. It was told by Mandeep Singh that half share of that property was in the name of Harpreet Kaur and Gurpreet Kaur daughters of Balvir Singh whereas, half of the share was in the name of Paramjit Singh. It was told that both Gurpreet Kaur and Harpreet Kaur had executed their respective General Power of Attorney of their share in property in favour of Paramjit Singh. The photocopies of these documents were shown to the complainant and his brother-in-law to ensure that there was no dispute pending regarding this property. On 03.03.2022, Mandeep Singh came to the house of Gurleen Singh and demanded Rs.40.00 lacs to execute the agreement to sell of the abovesaid property however, they paid Rs.20.00 lacs in cash. On the same day, Mandeep Singh brought the agreement to sell of the abovesaid property being half share of owner Paramjit Singh and half share of others owners from Paramjit Singh being attorney, wherein Mandeep Singh signed as vendee and Paramjit Singh signed as vendor. On 01.08.2022, Mandeep Singh contacted Mohinder Singh Patiala, relative of the complainant and demanded Rs.10.00 lacs more on the pretext that Paramjit Singh was in need of money. They contacted Mandeep Singh on 28.12.2022 for execution of the sale deed but Mandeep Singh started lingering on the matter on one pretext or the other. They met Paramjit Singh owner of the abovesaid property and narrated the whole story about the agreement executed with Mandeep Singh and told them that the signatures are not of him and the value of his property was Rs.5.00 crores

and why would he sell the property on such a cheap rate. It was alleged that Paramjit Singh Kalsi has admitted that he had taken Rs.22.50 lacs from Mandeep Singh regarding this deal. Thus, it was alleged that Paramjit Singh Kalsi had admitted receiving Rs.22.50 lacs on one side and on the other side, he refused to have struck any deal. The complainant alleged that neither the sale deed was executed with him nor total amount of Rs.56.00 lacs was returned. Thus, request was made to take legal action against the accused. Apprehending arrest, petitioner approached the Court of learned Additional Sessions Judge, Ludhiana praying for grant of anticipatory bail. However, after hearing counsel for both the sides, the same was declined vide order dated 05.12.2024. Being aggrieved, petitioner is before this Court praying for grant of anticipatory bail.

3. This Court on hearing counsel for the petitioner that keeping in view the facts and circumstances of the case, the matter be referred to the Mediation Centre, accepted the same and on the request of both the sides, the matter was referred to the Mediation vide order dated 16.12.2024. Report of the Mediator was received wherein it was found that the mediation between the parties failed and hence, the case was taken up for hearing.

4. Learned counsel for the petitioner has contended that neither the petitioner has received any amount nor there was any agreement entered into between the petitioner and the complainant. He submits that from the allegations made in the FIR, it is apparent that the dispute is of a civil nature and thus, no offence is made out against the petitioner and hence, he be granted anticipatory bail.

5. However, learned counsel for the complainant has vehemently opposed the same. He submits that petitioner is one of the co-sharer of the property which was to be purchased and projected himself as the power of attorney holder of the remaining co-sharer. He thus, submits that it is on the assurance of the petitioner that the complainant had parted with a heavy amount of Rs.56.00 lacs. He submits that after having been received the amount of Rs.56.00 lacs, neither the sale deed was executed nor the money was returned. He submits that the petitioner in conspiracy with co-accused Mandeep Singh had usurped a heavy amount of Rs.56.00 lacs from the complainant. Thus, he contended that the case in hand is not of a civil nature but *prima facie* case of cheating in conspiracy with co-accused is clearly made out against the petitioner. He submits that no case for the grant of anticipatory bail is made out and thus, the petition being devoid of any merits deserves to be dismissed.

6. Learned State counsel has also argued on the same lines. He submits that the petitioner is the main conspirator and the case is under investigation. It is submitted that the custodial interrogation of the petitioner is required for free and fair investigation and thus, the petition deserves to be dismissed.

7. After hearing counsel for the parties and perusing the record, it is inferred that the petitioner is alleged to be the co-sharer of the property for which the deal was struck. Petitioner was alleged to be the owner of the half of the share of the property whereas he projected himself as the power of attorney holder of the rest of the co-sharers. Thus, it is on assurance, amount of Rs.56.00 lacs has been allegedly paid by the complainant.

8. Keeping in view the facts and circumstances of the case, this Court had referred the matter to the mediation for resolving the dispute amicably however, the same remained unsuccessful. From the arguments advanced on behalf of the petitioner, it is inferred that the petitioner had contended that neither he has taken the money nor he has entered into any agreement. Needless to say the investigation is at the initial stage. The truth in the allegations and counter-allegations can be established only after free and fair investigation.

9. For the consideration of anticipatory bail, the statutory parameters are given under Section 482(2) of Bharatiya Nagarik Suraksha Sanhita, 2023 which reads as under:-

“Direction for grant of bail to person apprehending arrest:-

Where 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.

When the High Court or the Court of Sessions 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.

10. 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 also 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.

11. 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.

12. Weighing the facts and circumstances of the present case on the anvil of law settled, this Court is of the opinion that the custodial interrogation of the petitioner is very much essential to bring the truth on record and as such, petitioner does not qualify for exercising the extraordinary power by this Court in his favour. Resultantly, the petition being devoid of any merit is hereby dismissed. Nothing said herein shall be treated as an expression of opinion on the merits of the case.

(**RAJESH BHARDWAJ**)
JUDGE

02.04.2025
m. sharma

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