

2025:PHHC:041939



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

**CRM-M-15562-2025  
DECIDED ON: 21.03.2025**

**VIREN KUMAR BABUBHAI PATEL****.....PETITIONER****VERSUS****STATE OF PUNJAB****.....RESPONDENT****CORAM: HON'BLE MR. JUSTICE SANDEEP MOUDGIL**

Present: Mr. Naveen Sharma, Advocate for the petitioner.

**SANDEEP MOUDGIL, J (ORAL)****1. Relief sought**

The jurisdiction of this Court has been invoked under Section 482 BNSS, 2023 for grant of anticipatory bail to the petitioner in FIR No.6, dated 10.01.2025, under Section 223 of BNS and Sections 51 and 39 of Wildlife (Protection) Act, 1972 and Section 15 of Environment (Protection) Act, 1988, registered at Police Station Sahnewal, District Police Commissionerate Ludhiana.

2. Prosecution story setup in the present case as per the version in the FIR as under:-

*“SHO PS Sahnewal District Ludhiana, "Jai Hind". Today I ASI along with ASI Amrik Singh No.902/LDH, SC Gurpreet Singh No.3153/LDH, SC Sunil Kumar No. 1178/LDH, SC Satinderpal Singh No.3400 /LDH, CT. Vansnoor Kahlon No.4260/LDH along with laptop and printer in Government vehicle Bolero No.PB- 10GK- 0572, driver thereof is PHG Lakhvir Singh No.29087 was present at canal road, Giaspura, Ludhiana regarding patrolling and checking of suspicious persons then secret informer came before me/ASI and*

*gave information that Sahil Kanojiya son of Rinku Kanojiya, resident of House No.2081/2 F, Street No.2, Basant Nagar, Shivpuri Ludhiana, Vijay Sharma son of Dhana Ram resident of Ward No.4, Mohalla Meghwala, Police Station Tara Nagar District Churu Rajasthan and Lal Chand Mena son of Ram Das Mena, resident of village Brahm Nagar, PS Tara Nagar District Churu Rajasthan brought the objectionable China door from outer states and have given to Gaurav son of Jasvir Singh, resident of Char Hatiya, Rupnagar. Gaurav is supplying this China door in other cities apart from Ludhiana City. With this China door, the human and animals have been hurt and many humans, cattles and birds have also died. Sahil Kanojiya, Vijay Sharma and Lal Chand Mena brought the dangerous objectionable China door via Gujrat and are standing on G.T. Road near Giaspura Chowk Ludhiana to supply it to Gaurav. If raid be conducted now then heavy quantity of China door can be recovered from them. The information and concrete and trust worthy. They have violated the Hon'ble Deputy Commissioner of Police Rural, Ludhiana order No. 140052-140100/A.C.3 dated 11.11.2024 for keeping objectionable China door in their possession and selling. By doing such act by above said persons have fulfilled the ingredients of Section 223 of BNS, 51- 39 of Wild Life Protection Act 1972 & 15 of Environment Protection Act, 1986. So, I ASI after getting the ruga typed from SC Satinderpal Singh No.3400/LDH in the laptop against Sahil Kanojiya, Vijay Sharma, Lal Chand Mena and Gaurav under above mentioned offences and taking print out of the same and is being sent to police station through CT Vansnoor Kahlon No.4270/LDH. After registering the case, FIR number be intimated. I ASI along with fellow officials has left for raid at Giaspura Chowk, Ludhiana. Sd/- ASI Jaspal Singh No.2614/LDH Crime Branch-1, District Ludhiana dated 10.01.2025. In the area of Canal Road, Giaspura Ludhiana at 6 PM. Today at police station: On receipt of above said ruga to police station, case has been registered against Sahil Kanojiya, Vijay Sharma, Lal Chand Mena and Gaurav under above offences. Original ruga along with copy of FIR is being sent to ASI through CT. Vansnoor Kahlon No. 4260/LDH. Control room is being informed. Closing Rapat No.25 at 6:40 PM.”*

3. **Contention**

**On behalf of the petitioner**

Learned counsel for the petitioner submits that the petitioner has been falsely implicated in the present case based on secret information. He further submits that the alleged recovery was made from the co-accused, and

there is nothing to be recovered from the petitioner. He contends that the co-accused, namely Gourav, has already been granted bail by this Court vide order dated 10.02.2025 (Annexure P-4) passed in CRM-M-7434-2025. He undertakes on behalf of the petitioner that he is ready and willing to join the investigation.

Notice of motion.

**On behalf of the State/complainant**

On the asking of Court, Mr. Jaspal Singh Guru, AAG Punjab, accepts notice on behalf of respondent/State. He prays for dismissal of the present petition stating that the invoices of goods was issued by the petitioner in the name of his firm i.e., Marmik Industries, Vapi, Gujrat, therefore, his custodial interrogation is required.

4. **Analysis**

In everyday terms, the principle of law dictates that bail is the general rule, while jail is the exception. However, this Court acknowledges that the power to grant or deny bail is extraordinary and must be exercised with caution. It is well-established that when considering a bail application (whether pre-arrest or regular bail), the Court must form a prima facie opinion as to whether reasonable grounds exist to support the accusation, or if the accusation is frivolous and baseless possibly made with the intention of harming or humiliating the individual, or falsely implicating them in the crime. This evaluation must be conducted in the light of self-imposed restrictions and the broader legal parameters outlined.

This Court is mindful that, according to the legal mandate rendered by Hon'ble Supreme Court in Criminal Appeal No. 3840 of 2023, titled "*Saumya Churasia versus Directorate of Enforcement, decided on*

*14.12.2023*”, when considering a bail application, the Court is not obligated to meticulously examine the evidence gathered by the Investigating Agency. However, the Court must consider several factors, including the nature of the accusation, the type of evidence collected in support, the severity of the punishment for the alleged offences, the character of the accused, the unique circumstances surrounding the accused, the likelihood of securing the accused’s presence during trial, the possibility of witness tampering, and the broader interests of the public or State. In the light of these factors, when assessing a bail application, the Court is required to form a prima facie opinion based on these broad guidelines, without delving into the merits of the evidence, as doing so could potentially prejudice the rights of both the accused and the prosecution.

Adverting to the merits of the present case, 3360 gattu of “China dor” was recovered from the accused persons. As per the case of the prosecution, the petitioner is the person, who had sent “China dor”. The material sent by the petitioner is intended for the manufacturing of various types of brushes and similar items. The prosecution contends that, although a bill was generated for polyester synthetic monofilament, the actual material recovered was labeled as Mono kite string, which was subsequently used as "China dor." "China dor" has now become a significant societal threat, with daily incidents of injury and even fatalities. Despite being banned, "China dor" continues to be sold. Moreover, the invoices issued are in the name of the firm of the petitioner, therefore this Court is of the view that the consignment carrying Chinese thread (dor), which was recovered from the spot from a truck, was manufactured by the present petitioner.

The mere contention that the petitioner is ready and willing to join the investigation does not vest a right for grant him anticipatory bail because an element of cheating is involved in it. The case made out against the petitioner is certainly a relevant ground for denial of anticipatory bail in the case in hand.

The Hon'ble Supreme Court in the case of ***Sumitha Pradeep Vs. Arun Kumar C.K. & Anr. 2022 Live Law (SC) 870*** held that merely because custodial interrogation was not required by itself could not be a ground to grant anticipatory bail. The first and the foremost thing the Court hearing the anticipatory bail application is to consider is the prima facie case against the accused. The relevant extract of the judgment is reproduced hereinbelow:-

*“It may be true, as pointed out by learned counsel appearing for Respondent No.1, that charge-sheet has already been filed. It will be unfair to presume on our part that the Investigating Officer does not require Respondent No.1 for custodial interrogation for the purpose of further investigation.*

*Be that as it may, even assuming it a case where Respondent No.1 is not required for custodial interrogation, we are satisfied that the High Court ought not to have granted discretionary relief of anticipatory bail.*

*We are dealing with a matter wherein the original complainant (appellant herein) has come before this Court praying that the anticipatory bail granted by the High Court to the accused should be cancelled. To put it in other words, the complainant says that the High Court wrongly exercised its discretion while granting anticipatory bail to the accused in a very serious crime like POCSO and, therefore, the order passed by the High Court granting anticipatory bail to the accused should be quashed and set aside. In many anticipatory bail matters, we have noticed one common argument being canvassed that no custodial interrogation is required and, therefore, anticipatory bail may be granted. There appears to be a serious misconception of law that if no case for custodial interrogation is made out by the prosecution, then that alone would be a good ground to grant anticipatory bail. Custodial interrogation can be one of the relevant aspects to be considered along with other grounds while deciding an application seeking anticipatory bail. There may be*

*many cases in which the custodial interrogation of the accused may not be required, but that does not mean that the prima facie case against the accused should be ignored or overlooked and he should be granted anticipatory bail. The first and foremost thing that the court hearing an anticipatory bail application should consider is the prima facie case put up against the accused. Thereafter, the nature of the offence should be looked into along with the severity of the punishment. Custodial interrogation can be one of the grounds to decline custodial interrogation. However, even if custodial interrogation is not required or necessitated, by itself, cannot be a ground to grant anticipatory bail.”*

More so, investigation is still going on in the present case. It is settled proposition of law that power exercisable under Section 482 BNS, 2023, is somewhat extraordinary in character and it is to be exercised in exceptional cases. The Supreme Court in “State vs. Anil Sharma”; (1997) 7 SCC 187, held as under:-

*“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 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 material 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 needs 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.”*

## 5. **Decision**

In view of the seriousness of the allegations as also the need to take the investigation to its logical conclusion, the custodial interrogation of

the petitioner is certainly required. Therefore, I find no merit in the instant petition, hence, the same is hereby dismissed.

However, it is made clear that the observations in this order are only for the purposes of deciding this bail application and the Trial Court is free to adjudicate upon the matter in accordance with law.

21.03.2025

*Sham*

(SANDEEP MOUDGIL)  
JUDGE

*Whether speaking/reasoned*      *Yes/No*

*Whether reportable*              *Yes/No*