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

CRM-M-58333-2024

Date of Decision: 14.01.2025

Noorul Ameen

...Petitioner

Versus

State of Haryana

...Respondent

**CORAM: HON'BLE MR. JUSTICE ANOOP CHITKARA**

Present: Ms. Rosi, Advocate, for the petitioner.

Mr. Naveen Kumar Sheoran, D.A.G., Haryana.

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**ANOOP CHITKARA, J.**

FIR No.	Dated	Police Station	Sections
39	14.02.2024	City Nuh, District Nuh	457, 380 IPC

1. The petitioner apprehending arrest in the FIR captioned above has come up before this Court under Section 482 of Bharatiya Nagarik Suraksha Sanhita, 2023, [BNSS], seeking anticipatory bail.

2. As per paragraph 8 of the bail petition, the accused has the following criminal antecedents:

Sr. No.	FIR No.	Date	Offenses	Police Station
1.	42	19.02.2024	457, 380 IPC	Nuh, District Nuh

3. The facts and allegations are being taken from the status report filed by the State, which reads as follows:

*"3. That the brief facts of the case are that on dated 14.02.2024 complainant Mansoor Ali son of Aabid Hussain, resident of village Aakeda, Police Station, Sadar Nuh submitted his complaint at Police Station City Nuh alleging therein that he was running a shop of inverters and batteries in the name of Mewat Solar House, near HDFC Bank, Nuh. On 09.02.2024, he closed his shop at around 06.30 p.m. and when he came at his shop on 10.02.2024, at around 09.00 a.m., he found that the locks of shutter of his shop were broken. He also found that the locks of shop of his neighbour Irfan were also broken. On checking, he found that 12 big batteries, 2 inverters and DVR of CCTV cameras were stolen from his shop. The*



*complainant further stated that one refugee identity card of Rohingya Aarif was found in the shop. The complainant also stated that some spare part and tools were found stolen from the shop of Irfan. The complainant further stated that he inquired the matter at his own level and came to know that Aarif son of Hafij (Rohingya), at present residing at Saddiq Nagar, Nuh was involved in the theft in his shop. The complainant requested for taking legal action against the accused.”*

4. The petitioner's counsel prays for bail by imposing any stringent conditions and contends that further pre-trial incarceration would cause an irreversible injustice to the petitioner and his family.
5. The State's counsel opposes bail and refers to the status report.
6. It would be appropriate to refer to the following portions of the status report, which read as follows:

*“6. That during investigation of the case, sufficient incriminating evidence came forth against accused Aarifulla son of Ahmed Hafij as such he was arrested on 17.02.2024. He was produced before the learned Illaqa Magistrate Nuh on 18.02.2024 and one day police custody remand was obtained. During interrogation, he suffered disclosure statement, wherein, he disclosed that on 09.02.2024, he and his companions Yasin son of Miya Umar and Nooru son of Tayyub (present petitioner) went to the shop of complainant in his Tempo, bearing registration No.HR-55AK-9680 and committed thief in the shop of complainant. He also disclosed that his Tempo and 2 stolen batteries had already been recovered by the police. He further disclosed that the other stolen batteries were in possession of his companions Noorul Ameen son of Tayyub and co-accused Yasin son of Miya Umar. Copy of disclosure statement of accused Aarifulla is annexed herewith as Annexure R-1. In pursuance to his disclosure statement, he demarcated the place of occurrence and one more stolen battery was got recovered by him. Further he was produced before the learned court on 19.02.2024 when he was sent to judicial custody.”*

7. The evidence collected against the petitioner is in the shape of disclosure statement which is hit by Sections 25 and 26 of the Indian Evidence Act. It is not a case for custodial interrogation or pre-trial incarceration.
8. Pre-trial incarceration should not be a replica of post-conviction sentencing. The



evidence might be prima facie sufficient to launch prosecution or to frame charges, but this Court is not considering the evidence at that stage but is analyzing it for the stage of anticipatory bail. An analysis of the above does not justify custodial interrogation or pre-trial incarceration.

9. Given the above, the penal provisions invoked coupled with the prima facie analysis of the nature of allegations and the other factors peculiar to this case, there would be no justifiability for custodial interrogation or the pre-trial incarceration at this stage. Without commenting on the case's merits, in the facts and circumstances peculiar to this case, and for the reasons mentioned above, the petitioner makes a case for bail. This order shall come into force from the time it is uploaded on this Court's official webpage.

10. Given above, provided the petitioner is not required in any other case, the petitioner shall be released on anticipatory bail in the FIR captioned above subject to furnishing bonds to the satisfaction of the Arresting Officer, and if the matter is before a Court, then the concerned Court and due to unavailability before any nearest Ilqa Magistrate/duty Magistrate. Before accepting the surety, the concerned Officer/Court must be satisfied that if the accused fails to appear, such surety can produce the accused.

11. While furnishing a personal bond, the petitioner shall mention the following personal identification details:

1.	AADHAR number	
2.	Passport number (If available) and when the attesting officer/court considers it appropriate or considers the accused a flight risk.	
3.	Mobile number (If available)	
4.	E-Mail id (If available)	

12. This order is subject to the petitioner's complying with the following terms.

13. The petitioner is directed to join the investigation within seven days of uploading this order on the official webpage of the High Court of Punjab and Haryana and as and when called by the Investigator. The petitioner shall be in deemed custody for Section 27 of the Indian Evidence Act, 1872/ Section 23 of BSA, 2023. The petitioner shall join the investigation as and when called by the Investigating Officer or any Superior Officer and shall cooperate with the investigation at all further stages as required. In the event of failure to do so, the prosecution will be open to seeking cancellation of the bail. During the investigation, the petitioner shall not be subjected to third-degree, indecent language, inhuman treatment, etc.



14. The petitioner shall abide by all statutory bond conditions and appear before the concerned Court(s) on all dates. The petitioner shall not tamper with the evidence, influence, browbeat, pressurize, induce, threaten, or promise, directly or indirectly, any witnesses, Police officials, or any other person acquainted with the facts and circumstances of the case or dissuade them from disclosing such facts to the Police or the Court.

15. In case the Investigator/Officer-In-Charge of the concerned Police Station arraigns another section of any penal offense in this FIR, and if the new section prescribes a maximum sentence that is not greater than the sections mentioned above, then this bail order shall be deemed to have also been passed for the newly added section(s). However, suppose the newly inserted sections prescribe a sentence exceeding the maximum sentence prescribed in the sections mentioned above; then, in that case, the Investigator/Officer-In-Charge shall give the petitioner notice of a minimum of seven days, providing an opportunity to avail the remedies available in law.

16. This bail is conditional, and the foundational condition is that if the petitioner indulges in any non-bailable offense, the State may file an application for cancellation of this bail before the Sessions Court, which shall be at liberty to cancel this bail.

17. Any observation made hereinabove is neither an expression of opinion on the case's merits nor shall the trial Court advert to these comments.

18. A certified copy of this order would not be needed for furnishing bonds, and any Advocate for the Petitioner can download this order along with case status from the official web page of this Court and attest it to be a true copy. If the attesting officer wants to verify its authenticity, such an officer can also verify its authenticity and may download and use the downloaded copy for attesting bonds.

19. **Petition allowed** in terms mentioned above. All pending applications, if any, stand disposed of.

(ANOOP CHITKARA)  
JUDGE

14.01.2025

Jyoti-II

Whether speaking/reasoned:	Yes
Whether reportable:	No.