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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

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Decided on: 28.05.2025

Karanbir Singh

...Petitioner

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MR. JUSTICE ANOOP CHITKARA

Present: Mr. Navjot Singh, Advocate
for the petitioner.

Ms. Navreet Kaur Barnala, Asst. AG, Punjab.

ANOOP CHITKARA, J.

FIR No.	Dated	Police Station	Sections
94	22.11.2021	Dera Baba Nanak, District Gurdaspur, Punjab	420, 506 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 for the third time.

2. In paragraph 16 of the bail petition, the accused declares that he has no criminal antecedents.

3. The facts and allegations are taken from the order dated 28.12.2021 passed by the Additional Sessions Judge, Gurdaspur, which reads as follows:

"...brief contents that one Jeewanjot Singh son of complainant was unemployed and Dilbagh Singh asked the complainant to get recruited his son in the Railway Department. On this, he demanded Rs. 10,00,000/-. As his son was unemployed and he made Yes. Earlier he gave Rs. 5,00,000/- and thereafter, on his repeated demands after two months he gave Rs. 5,00,000/- again to him. After a lapse of time order of his son in the railway department had not come. He asked through phone to Dilbagh Singh about the employment of his son, but they linger on the matter on



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one pretext to the other. He went to the house of Dilbagh Singh with the respectable persons who executed the agreement in writing in which he gave two cheques of Rs. 5,00,000/- and Rs. 2,00,000/- each and remaining Rs. 3,00,000/- in cash was agreed to be given to him. He deposited cheques in the bank which were dishonoured. Thereafter, they are calling on phone but he did not pick up the phone. In this manner Dilbagh Singh committed fraud on the pretext of providing job to his son for Rs. 10,00,000/-.

6. Inquiry on the complaint of complainant was conducted and police found that the amount in question was received by Dilbagh Singh and which were handed over to Karanbir Singh and Sukhraj Kaur at the house of complainant. Out of which Rs. 1,00,000/- has been returned by the accused party to the complainant. Accordingly, FIR was registered against the applicant and non-applicant.”

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 their family.

5. The State's counsel opposes bail.

REASONING:

6. Perusal of the file shows that petitioner had earlier filed bail petition before this Court and the said petition was dismissed as withdrawn with liberty to the petitioner to file a regular bail petition case under Section 439 CrPC and not the anticipatory bail.

7. Unlike successive bail applications under section 439 CrPC in changed circumstances, the filing of successive applications before the same court, under section 438 CrPC, which had been decided earlier by a speaking order, amounts to recalling of the order, which is barred under section 362 CrPC/403 BNSS and is legally impermissible.

8. In State of Bihar and Ors. v. J.A.C. Saldanha and Ors., 1979-INSC-235, a three-member bench of Supreme Court holds,

[25]. There is a clear cut and well demarcated sphere of activity in the field of crime detection and crime punishment. Investigation of an offence is the field exclusively reserved for the executive through the police department, the superintendent over which vests in the State Government. The executive which is charged with a duty to keep vigilance over law and order situation is obliged to prevent crime and if an offence is alleged to



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have been committed it is its bounden duty to investigate into the offence and bring the offender to book. Once it investigates and finds an offence having been committed it is its duty to collect evidence for the purpose of proving the offence. Once that is completed and the investigating officer submits report to the Court requesting the Court to take cognizance of the offence under Section 190 of the Code its duty comes to an end. On a cognizance of the offence being taken by the Court the police function of investigation comes to an end subject to the provision contained in Section 173(8), there commences the adjudicatory function of the judiciary to determine whether an offence has been committed and if so, whether by the person or persons charged with the crime by the police in its report to the Court, and to award adequate punishment according to law for the offence proved to the satisfaction of the Court. There is thus a well defined and well demarcated function in the field of crime detection and its subsequent adjudication between the police and the Magistrate. This has been recognised way back in *King Emperor v. Khwaja Nazir Ahmad* [1944] L.R. 71 IndAp 203, where the Privy Council observed as under:

In India, as has been shown, there is a statutory right on the part of the police to investigate the circumstances of an alleged cognizable crime without requiring any authority from the judicial authorities and it would, as their Lordships think, be an unfortunate result if it should be held possible to interfere with those statutory rights by an exercise of the inherent jurisdiction of the Court. The functions of the judiciary and the police are complementary, not overlapping, and the combination of individual liberty with a due observance of law and order is only to be obtained by leaving each to exercise its own function, always, of course, subject to the right of the Court to intervene in an appropriate case when moved under Section 491 of the Criminal Procedure Code to give directions in the nature of habeas corpus. In such a case as the present, however, the court's functions begin when a charge is preferred before it, and not until then.

[26] . This view of the Judicial Committee clearly demarcates the functions of the executive and the judiciary in the field of detection of crime and its subsequent trial and it would appear that the power of the police to investigate into a cognizable offence is ordinarily not to be interfered with by the judiciary.

9. In *M.C. Abraham and ors. v. State of Maharashtra and ors*, 2002-INSC-575, Supreme Court holds,

[13]. This Court held in the case of *J.A.C. Saldanha (supra)* that there is a clear-cut and well demarcated sphere of activity in the field of crime detection and crime punishment.

Investigation of an offence is the field exclusively reserved by the executive through the police department, the superintendence over which vests in the State Government. It is the bounden duty of the executive to investigate, if an offence is alleged, and bring the offender to book. Once it investigates and finds an offence having been committed, it is its duty to collect evidence for the purpose of proving the offence. Once that is completed and the investigating officer submits report to the Court requesting the Court to take cognizance of the offence under Section 190



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of the code of Criminal Procedure, its duty comes to an end. On a cognizance of the offence being taken by the Court, the police function of investigation comes to an end subject to the provision contained in Section 173(8), then commences the adjudicatory function of the judiciary to determine whether an offence has been committed and if so, whether by the person or persons charged with the crime. In the circumstances, the judgment and order of the High Court was set aside by this Court.

10. In *G.R. Ananda Babu v. State of Tamil Nadu*, [Law Finder Doc Id # 1800715], decided on 28.1.2021, a three-judge bench of Hon'ble Supreme Court holds,

[7]. As a matter of fact, successive anticipatory bail applications ought not to be entertained and more so, when the case diary and the status report, clearly indicated that the accused (respondent No. 2) is absconding and not cooperating with the investigation. The specious reason of change in circumstances cannot be invoked for successive anticipatory bail applications, once it is rejected by a speaking order and that too by the same Judge.

[8]. To observe sobriety, we refrain from making any further observation, except to observe, that the impugned order, to say the least, is perverse; and also because no prejudice should be caused to respondent No.2 and affect the trial against him.

11. In *Ramadhar Sahu v. The State of Madhya Pradesh*, SLP (Crl) no. 11130-2023, decided on 16-10-2023, while dealing with a bail of an accused who was in custody, held as follows:

[5]. An order for refusal of bail however, inherently carries certain characteristics of an interlocutory order in that certain variation or alteration in the context in which a bail plea is dismissed confers on the detained accused right to file a fresh application for bail on certain changed circumstances. Thus, an order rejecting prayer for bail does not disempower the Court from considering such plea afresh if there is any alteration of the circumstances. Conditions of bail could also be varied if a case is made out for such variation based on that factor. Prohibition contemplated in Section 362 of the Code would not apply in such cases. Hence, we do not think the reasoning on which the impugned order was passed rejecting the appellant's application of bail can be sustained. The impugned order is set aside and the matter is remitted to the High Court. The bail petition of the appellant before the High Court shall revive to be examined afresh by the High Court in the light of our observations made in this order.

12. In the light of the judicial precedents mentioned above and in the given facts and circumstances peculiar to this case, the petitioner fails to justify filing of successive application for anticipatory bail under section 438 CrPC/482 BNSS 2023 in the same court.

13. Even otherwise, when this court re-assessed the petitioner's case on merits, the

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nature of the allegations and the malicious intent make the allegations grave and do not make out a case for anticipatory bail. The impact of crime would also not justify bail.

14. Any observation made hereinabove is neither an expression of opinion on the case's merits nor the court taking up regular bail nor the trial Court shall advert to these comments.

15. Petition dismissed. Pending applications, if any, stand disposed of.

(ANOOP CHITKARA)
JUDGE

28.05.2025

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Whether speaking/reasoned: Yes

Whether reportable: No