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

**CRM-M No.13902 of 2025
Date of Decision: 12.03.2025**

Nasir Hussain**..... Petitioner****Versus****State of Haryana****..... Respondent****CORAM: HON'BLE MR. JUSTICE RAJESH BHARDWAJ***********

Present: Mr. Baljeet Beniwal, Advocate
for the petitioner.

***********RAJESH BHARDWAJ J.**

1. Present petition has been filed praying for the grant of anticipatory bail to the petitioner in case bearing FIR No.716, dated 17.12.2024, under Sections 305(A), 318, 3(5) of BNS, 2023, registered at Police Station Mujessar, Faridabad, District Faridabad.

2. Succinctly the facts of the case are that FIR in the present case was registered on the statement of complainant, namely, Vishnu Aggarwal. It was alleged that he had a godown at Sarurpur Friends Complex, Faridabad and owned a company, namely, Alloys Pvt. Ltd. where he is carrying on the work pertaining to the scrap work. On 16.12.2024, about 42 ton of aluminum scrap was unloaded in his godown. However when he came to his godown on 17.12.2024 at about 9:00 A.M., he saw 15-20 ton of aluminum scrap having been stolen. It was alleged that some unknown



persons have stolen the aluminum scrap and hence the request was made to register the case and legal action be taken. On registration of the FIR, the investigation commenced. During the investigation, complicity of the petitioner was prima facie found by the Investigating Agencies and thus he was arrayed as an accused. Efforts for his arrest were made, however he could not be arrested. Apprehending his arrest, the petitioner approached the Court of learned Additional Sessions Judge, Faridabad praying for the grant of anticipatory bail. However, after hearing both the sides, the learned Additional Sessions Judge, Faridabad declined the petition filed by the petitioner vide his order dated 05.03.2025. Hence being aggrieved, the petitioner is before this Court praying for the grant of bail by way of filing the present petition.

3. Learned counsel for the petitioner has vehemently contended that the petitioner has been falsely and frivolously implicated in the present case. He has submitted that during the investigation, accused, namely, Sagar was arrested and on his disclosure statement, another accused, namely, Sarwan Singh was arrested. He has submitted that on the disclosure statement of co-accused, now the petitioner has been arrayed as an accused in the present case. He has submitted that the disclosure statement of co-accused is not an admissible evidence. He has further submitted that no recovery is to be effected from the petitioner. He has thus submitted that no *prima facie* case has been made out against the petitioner and hence his custodial interrogation is not required. However the petitioner is ready to join the investigation. He has thus submitted that in



the facts and circumstances, the petitioner deserves to be granted anticipatory bail.

4. Notice of motion.

5. On asking of the Court, Mr. Sumit Jain, Addl. A.G., Haryana appears and accepts notice on behalf of the respondent-State. He has opposed the submissions made by learned counsel for the petitioner. He has submitted that the theft of 15-20 ton of aluminum scrap was committed as is evident from the allegations made in the FIR. He has submitted that the investigation is already in progress and some of the accused are arrested and complicity of the petitioner has been found during the investigation. He has submitted that the petitioner is also one of the accused in committing the alleged offence and thus his custodial interrogation is required for a free and fair investigation. He has submitted that no case for the grant of anticipatory bail to the petitioner is made out and thus the present petition being devoid of merit deserves to be dismissed.

6. Heard.

7. On hearing learned counsel for the parties and perusing the record, it is deciphered that FIR in the present case was registered on 17.12.2024. As per the allegations, 15-20 ton of aluminum scrap was stolen from the godown of the complainant. During the investigation, co-accused, namely, Sagar and Sarwan Singh have been arrested. Some of the recoveries have also been effected from them. During their interrogation, the petitioner is also found to be the co-accused in committing the alleged offence. The recoveries are yet to be effected. As evident from the record,



the petitioner is facing prosecution in one more case bearing FIR No.75/2023, under Sections 381, 34 of IPC, registered at Police Station Dabua. The investigation is at threshold.

8. For the consideration of anticipatory bail, the statutory parameters are given under Section 482 (1) & (2) BNSS which reads as under:-

“Direction for grant of bail to person apprehending arrest:

1. *When 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.*
2. *When the High Court or the Court of Session 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.”*

9. 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 always 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.”

10. 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.”

11. Weighing the facts of the case on the anvil of the law settled, it is apparent that the complicity of the petitioner has been prima facie established. The investigation is at its threshold. Thus, granting anticipatory bail to the petitioner at this stage would scuttle the ongoing investigation.

12. In view of the facts and circumstances of the present case, this Court is of the opinion that the 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 construed as an expression of opinion on the merits of the case.

12.03.2025

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**(RAJESH BHARDWAJ)
JUDGE**

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