

CRM-M-7720-2025(O&M)

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

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**CRM-M-7720-2025(O&M)
Decided on: 04.03.2025**

Pushkar Kumar

. . . Petitioner(s)

Versus

State of Haryana

. . . Respondent(s)

CORAM: HON'BLE MS. JUSTICE KIRTI SINGH

PRESENT: Mr. Ashok Gupta, Advocate and
Ms. Samridhi Singh, Advocate
for the petitioner(s).

Mr. Anmol Malik, DAG, Haryana.

Mr. Gaurav Gupta, Advocate for the complainant.

KIRTI SINGH, J. (Oral)

Apprehending arrest the petitioner has filed this petition under Section 482 of BNSS for grant of anticipatory bail in case bearing FIR No.646 dated 21.12.2024 under Sections 80(2) and 3(5) of BNS, registered at Police Station Saran, District Faridabad.

2. Learned counsel for the petitioner, inter alia, submits that petitioner has been falsely implicated in this case. It has been contended that the petitioner is the husband of the deceased and the marriage was performed on 12.06.2022. No specific allegations have been levelled against the petitioner and before the death of the deceased no complaint was ever lodged by her against the petitioner.

3. Status report filed by learned State counsel is taken on record. He while relying upon the contents of the status report submits that there are serious and allegations levelled against the petitioner, of harassment for demand of dowry because of which the victim committed suicide. The petitioner is a habitual offender and there are four other criminal cases

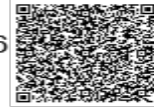


registered against him and in view of the same the petitioner is not entitled for grant of concession of anticipatory bail.

4. Heard the rival submissions made by both the parties.
5. In *Srikant Upadhyay and others vs. State of Bihar and another, 2024 (INSC) 202 (SC)*, Hon'ble Supreme Court held as under:

*“It is thus obvious from the catena of decisions dealing with bail that even while clarifying that arrest should be the last option and it should be restricted to cases where arrest is imperative in the facts and circumstances of a case, the consistent view is that the grant of anticipatory bail shall be restricted to exceptional circumstances. In other words, the position is that the power to grant anticipatory bail under Section 438, Cr.P.C. is an exceptional power and should be exercised only in exceptional cases and not as a matter of course. Its object is to ensure that a person should not be harassed or humiliated in order to satisfy the grudge or personal vendetta of the complainant. (See the decision of this Court in *HDFC Bank Ltd. v. J.J.Mannan & Anr. 2010 (1) SCC 679*).*

*Further, it was clearly observed in para NO. 24 of the judgment (supra) that “**though in many cases it was held that bail is said to be a rule, it cannot, by any stretch of imagination, be said that anticipatory bail is the rule.** It cannot be the rule and the question of its grant should be left to the cautious and judicious discretion by the Court depending on the facts and circumstances of each case. While called upon to exercise the said power, the Court concerned has to be very cautious as the grant of interim protection or protection to the accused in serious cases may lead to miscarriage of justice and may hamper the investigation to a great extent as it may sometimes lead to tampering or distraction of the evidence. We shall not be understood to have held that the Court shall not pass an interim protection pending consideration of such application as the Section is destined to safeguard the freedom of an individual against unwarranted arrest and we say that such orders shall be passed in eminently fit cases. At any rate, when warrant of arrest or proclamation is issued, the applicant is not entitled to invoke the extraordinary power. Certainly, this will not deprive the power of the Court to grant pre-arrest bail in extreme, exceptional cases in the*



interest of justice. But then, person(s) continuously, defying orders and keep absconding is not entitled to such grant.”

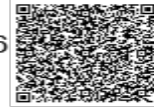
6. The Hon'ble Supreme Court in **Dr Naresh Kumar Mangla vs. Smt. Anita Agarwal & Ors. Etc.**, Criminal Appeal Nos.872-873 of 2020 Arising out of SLP (Crl.) Nos. 4935-4936 of 2020, cancelled the anticipatory bails granted to the parents-in-law, brother-in-law and sister-in-law of the deceased in an FIR registered under Sections 498A, 304-B, 323, 506 and 313 of the Indian Penal Code by placing reliance on the decisions passed in **Siddharam Satlingappa Mhetre vs. State of Maharashtra** (2011) 1 SCC 694, **Sushila Aggarwal vs State (NCT of Delhi)** (2020) 5 SCC 1, and **Myakala Dharmarajam vs. The State of Telangana** (2020) 2 SCC 743, among others. Further, strong observations regarding the deficiencies in the investigation were recorded and further investigation of the case was committed to CBI, while holding that “23. ...The cause of justice would not be served if the Court were to confine the scope of its examination to the wisdom of granting anticipatory bail and ignore the possibility of a trial being concluded on the basis of a deficient investigation at best or a biased one at worst.”

7. Recently, the Delhi High Court in **Sushma v. State NCT of Delhi, 2024 SCC Online Del 6750**, while denying the concession of anticipatory bail to the mother-in-law of the deceased, observed thus:

“16. It is trite law that the power to grant a pre-arrest bail under Section 438 of the CrPC is extraordinary in nature and is to be exercised sparingly. Thus, pre-arrest bail cannot be granted in a routine manner. The Hon'ble Apex Court, advertent to its previous precedents, has discussed the parameters to be considered while considering pre-arrest bail applications, in the case of **State of A.P. v. Bimal Krishna Kundu : (1997) 8 SCC 104**, has held as under:

"8. A three-Judge Bench of this Court has stated in **Pokar Ram v. State of Rajasthan [(1985) 2 SCC 597 : 1985 SCC (Cri) 297 : AIR 1985 SC 969]** : (SCC p. 600, para 5)

"5. Relevant considerations governing the court's decision in granting anticipatory bail under Section 438 are materially different from those when an application for bail by a person



who is arrested in the course of investigation as also by a person who is convicted and his appeal is pending before the higher court and bail is sought during the pendency of the appeal."

9. Similar observations have been made by us in a recent judgment in *State v. Anil Sharma [(1997) 7 SCC 187 : 1997 SCC (Cri) 1039 : JT (1997) 7 SC 651]* : (SCC pp. 189-90, para 8)

"The consideration which should weigh with the Court while dealing with a request for anticipatory bail need not be the same as for an application to release on bail after arrest."

xxxx xxxx xxxx

12. We are strongly of the opinion that this is not a case for exercising the discretion under Section 438 in favour of granting anticipatory bail to the respondents. It is disquieting that implications of arming the respondents, when they are pitted against this sort of allegations involving well-orchestrated conspiracy, with a pre-arrest bail order, though subject to some conditions, have not been taken into account by the learned Single Judge. We have absolutely no doubt that if the respondents are equipped with such an order before they are interrogated by the police it would greatly harm the investigation and would impede the prospects of unearthing all the ramifications involved in the conspiracy. Public interest also would suffer as a consequence. Having apprised himself of the nature and seriousness of the criminal conspiracy and the adverse impact of it on "the career of millions of students", learned Single Judge should not have persuaded himself to exercise the discretion which Parliament had very thoughtfully conferred on the Sessions Judges and the High Courts through Section 438 of the Code, by favouring the respondents with such a pre-arrest bail order."

17. This Court, while dismissing the bail application of the applicant's husband, who is a co-accused in the present case, observed that the victim died under unnatural circumstances within three years of her marriage to the applicant's son. This fact raises a statutory presumption under Section 113B of the Indian Evidence Act, 1872. Furthermore, the applicant has been specifically accused of harassing the deceased soon after her marriage, allegedly in connection with dowry demands, which eventually led to her tragic death.

18. This Court relied upon the judgment passed by the Hon'ble Apex Court in the case of *Samunder Singh v. State of Rajasthan and Others : (1987) 1 SCC 466*, wherein it was held that in cases involving dowry death, the High Court should exercise caution and refrain from granting pre-arrest bail, given the gravity and seriousness of such offences.

19. It was further noted by this Court that, although there was a delay in the statement regarding the cruelty inflicted upon the deceased, such delay cannot, at this stage, be considered detrimental to the prosecution's case. The merit of this aspect will be evaluated



during the trial, and it does not warrant the granting of pre-arrest bail at this juncture.

20. It cannot be held, at this stage, that the investigation is being carried out with the intention to injure or humiliate the applicants. The nature and the gravity of the allegations are serious. It is settled law 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 CrPC [Ref. *State v. Anil Sharma : (1997) 7 SCC 187*].

21. The investigating agency needs to be given a fair play in the joints to investigate the matter in the manner they feel appropriate.

22. The relief of pre-arrest bail is a legal safeguard intended to protect individuals from potential misuse of power of arrest. It plays a crucial tool in preventing harassment and unjust detention of innocent persons. However, the court must carefully balance the individual's right to liberty with the interests of justice. While the presumption of innocence and the right to liberty are fundamental principles of law, they must be considered in conjunction with the gravity of the offence, its societal impact, and the need for a comprehensive and unobstructed investigation.

23. While the benefit of proviso to Section 437 of the CrPC, which allows for leniency in granting bail to a woman, sick, or infirm, is recognized under certain circumstances, this benefit cannot be extended at the stage of pre-arrest bail. The applicant is accused of having a role similar to that of her husband/co-accused, whose pre-arrest bail has already been dismissed by the Hon'ble Apex Court.

24. Even otherwise, the protection under Section 437 of the CrPC is not absolute and is subject to the nature and gravity of the offence. In this case, where the applicant is alleged to be directly involved in the incessant demands of dowry and harassment of the deceased, the mere fact of being an elderly woman or infirm does not automatically entitle her to pre-arrest bail. The allegations must be scrutinized based on the merits of the case, and the severity of the crime takes precedence over any personal exemptions under Section 437 of the CrPC.

25. In view of the above, the present circumstances, this Court is of the opinion that custodial interrogation of the applicants ought not to be denied to the investigating authority.

26. Considering the aforesaid discussion, this Court is of the opinion that the applicant has not made out a prima facie case for grant of pre-arrest bail.

27. The present application is accordingly dismissed.

28. It is clarified that any observations made in the present order are for the purpose of deciding the present bail application and should not influence the outcome of the trial and also not be taken as an expression of opinion on the merits of the case.”

8. There are serious and specific allegations against the petitioner for demand of dowry and harassment of the deceased-wife. The petitioner is also involved in four other FIRs. In dowry death cases, the Court must be mindful of the broader social impact, given that the offence strikes at the

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very root of social justice and equality. The practice of dowry remains a grave social concern, and it cannot be ignored that the young bride died in less than two years of marriage. In view of the serious allegations, this Court does not deem it appropriate to interfere in the matter so as to grant the concession of anticipatory bail to the petitioner at this stage.

09. The petition is dismissed.

10. Pending miscellaneous application(s), if any, also stands disposed of.

(KIRTI SINGH)
JUDGE

04.03.2025*Kapil*

<i>Whether speaking/reasoned:</i>	<i>Yes/No</i>
<i>Whether Reportable:</i>	<i>Yes/No</i>