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IN THE HIGH COURT OF PUNJAB AND HARYANA  
AT CHANDIGARH

CRM-M-5007-2025

Date of Decision: 05.03.2025

Jay Prakash Yadav @ Jayprakash Yadav ...Petitioner

Versus

State of Haryana ...Respondent

CORAM: HON'BLE MR. JUSTICE ANOOP CHITKARA

Present: Mr. Akash Vashisth, Advocate and  
Mr. Akinchan Aggarwal, Advocate  
for the petitioner.

Mr. Aashish Bishnoi, D.A.G., Haryana.

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ANOOP CHITKARA, J.

FIR No.	Dated	Police Station	Sections
44	11.04.2024	City Kanina	109, 120-B, 279, 304, 336, 337, 338 IPC, 177, 185, 192 of MV Act and 75 of Juvenile Justice (Care and Protection of Children) Act, 2015

1. The petitioner apprehending arrest in the FIR captioned above has come up before this Court under Section 438 CrPC/ Section 482 of Bharatiya Nagarik Suraksha Sanhita, 2023, [BNSS], seeking anticipatory bail.

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

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

*“4. That the brief facts of the case are that on 11.04.2024, PSI Tapender was present at Police Station, City Kanina where he received an information form Control Room that a school bus has met with an accident near Unhani in which many children were injured and he reached at the support. On receiving the information, PSI alongwith fellow employee ASI Satish No. 59/NNL, HC Sunil No. 312/NNL, L/ASI Snehlata No. 156/NUH, L/ASI Suresh No. 623/NNL,*



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*EHC Satyanarayan No.733/NNL, EHC Sukhbir No. 813/NNL reached at the spot. Ambulance was informed to arrive at the incident site. Some injured children were sent to the hospital from the incident site by the public and some injured children were sent in an ambulance to the Government Hospital, Kanina. The investigating officer took photos of the incident site with his mobile phone. The accidental bus was shifted to the side from the spot. Control Room, Narnaul and senior officials were informed for police assistance. After that, the investigating officer alongwith his fellow employee, reached at CHC, Kanina and obtained the MLRs of the injured children YADA Dead of Satyam son of Rakesh resident of Jhadli and Yuvraj son of namely Anuj, Maan and Yashvi (Copy of MLRs of injured Anuj, Maan and Yashvi are enclosed herewith as Annexure R-1 to R-3) and Ruqa Sanjay resident of Dhanaunda Jhadli were also received. The information was received from Government Hospital, Mahendergarh that Ricky @ Chiku son of Ravinder resident of Dhanaunda, Anshu son of Sandeep resident of Jhadli, Yakshu son of Sandeep r/o Jhadli and Vansh @ Golu son of Dushyant r/o Dhanaunda have also died there and thereafter the Ruqa Dead of the concerned were obtained from Govt. Hospital, Mahendergarh. The crowd caught Ganeshi Lal Public School bus driver Dharmender son of Vijay Kumar, a resident of Sehlang from the spot and handed him over to the police. The smell of alcohol was coming from his mouth. The medical examination/alcohol test of driver Dharmender was got conducted at Government Hospital, Mahendergarh, in which Doctor has recorded that Alcohol Smell Present In Breath (Copy of medical report of driver Dharmender is enclosed herewith as Annexure R-4) and the blood sample was taken by the doctor which was handed over to the police was taken into police possession vide recovery memo.”*

4. The petitioner's counsel prays for bail by imposing any stringent conditions including surrender of fire arms, if any.
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:

*“12. That the name of the petitioner has surfaced in the disclosure statement of co-accused Subhash (Annexure R-30) who is real brother of the petitioner wherein he has stated that Mobile no. 7669006067 was used by his younger brother Jaiprakash Yadav, both the calls regarding the driver's complaint received through JUST DIAL, on 11.04.2024 were heard by his younger brother Jaiprakash. He gave him his SIM mobile no. 7669006067. It is submitted that due to the accident, six kids of GL Public School had died and other kinds sustained severe injuries. It is pertinent to mention here that the management had remained negligent throughout due to which the alleged accident had occurred. Prior to this incident, the parents of the various students/kids already reported the*



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*management with regard to the negligent act and conduct of the driver, but the management did not pay any heed to the requests of the parents of the students/kids. During investigation, the police had taken the photographs of the accidental bus and the telephone number of co-accused Subhash was found written thereon. One person namely Arun Kumar had tried to call at the mobile phone numbers mentioned on the bus reporting vt of persons accompanying the driver in the said bus, in order to make the about the drunkard condition of the driver as well as the four other Notary 24/02/2 person apprised of the drunkard condition of the driver. However, when no response was given by anyone at the mobile phone numbers mentioned on the accidental bus, the said Arun Kumar obtained the number of the petitioner from the 'JUST DIAL' where he obtained the number of the petitioner and also apprised him about the rash and negligent conduct of the driver and accompanied persons, but no action was taken by him, resultantly, the alleged accident had taken place resulting into death of various students/kids. It is pertinent to mention here that in view of the disclosure statement (Annexure R-30) given by the own brother of petitioner namely Subhash, the present petitioner is actively involved in the management of the school and was teaching History subject in the school. It is submitted that the accused persons including the petitioner had not violated the express directions given by Hon'ble Apex Court of India, but also violated the guidelines issued by Govt. of Haryana Transport Department for regulating the transport facilities of their school, which dis-entitles the concession of bail to the petitioner. It is pertinent to mention here that the relevant call had been received by the petitioner from one Arun Kumar; had the timely action taken by him and the management committee, the lives of innocent kinds could have been saved. The mobile phone by which the petitioner had received a call from Arun Kumar about the rash and negligent driving of the driver of the offending bus is yet to be recovered from the possession of the petitioner for which the custodial interrogation of the petitioner is required in the present case. Besides the voice sample of the petitioner is also required in the present case."*

7. An analysis of the pleadings would lead to the outcome that there is no direct evidence against the petitioner connecting him with the offence in question. The only allegation is that the petitioner had received the calls about the negligent driving of the bus but the petitioner did not pay any heed. This type of evidence is not sufficient to deny bail to the petitioner.

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.



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9. The Police did not arrest the petitioner; if they intended to arrest the petitioner, it was not impossible.

10. 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.

11. The investigation indicates that the petitioner is not the main accused, so the petitioner's bail shall not be treated as a precedent for granting bail to the other co-accused with a higher role.

12. 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 Ilaqa 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.

13. 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)	

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

15. 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.



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16. 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.

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

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

19. 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.

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

(ANOOP CHITKARA)  
JUDGE

05.03.2025  
Jyoti Sharma

Whether speaking/reasoned: Yes  
Whether reportable: No.