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

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**CRM-M No.14615 of 2025  
Date of decision: 13.05.2025**

Prasana Gupta @ Parsanna Gupta ... Petitioner

Vs.

State of Punjab ... Respondent

**CORAM: HON'BLE MRS. JUSTICE MANISHA BATRA**

Present:- Mr. Chetan Mittal, Sr. Advocate with  
Mr. Yogesh Goel, Advocate and  
Ms. Sehaj Sandhawalia, Advocate,  
for the petitioner.

Ms. Himani Arora, AAG, Punjab,  
for the respondent-State.

Mr. Kanwar Abhay Singh, Advocate,  
for the complainant.

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**MANISHA BATRA, J. (Oral)**

1. The present petition has been filed by the petitioner under Section 482 of the Bharatiya Nagarik Suraksha Sanhita, 2023 (For short "BNSS") seeking anticipatory bail in the FIR mentioned below:-

<b>FIR No.</b>	<b>Dated</b>	<b>Police Station</b>	<b>Sections</b>
0025	14.02.2025	Division No.6, District Ludhiana	420, 406 and 506 of IPC

2. Brief facts relevant for the purpose of disposal of the present petition are that the aforementioned FIR has been registered on the basis

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of a complaint filed by the complainant Rajnish Goel alleging that he along with his brother was engaged in business of trading in CR Coils and CR Sheets under the name and style of M/s Neelkanth Steel and Ram Rattan Enterprise at Ludhiana. The petitioner who was running a firm used to purchase coils and sheets from the firm of the complainant. The transaction of business continued between them from the year 2016 to 2024. The firm of the complainant had been raising invoices for the sold articles. An amount of Rs.1,51,59,917/- had become payable by the petitioner. On asking of the complainant, the petitioner had issued an handwritten acknowledgement/receipt of goods worth Rs.1,31,59,917/-. He had promised to pay the same but failed to do so despite repeated requests and demands as made by the complainant. On insistence of the complainant, he gave some cheques. These cheques were, however, dishonoured. The petitioner then offered to give his plot to them to discharge his liability but even failed to do so. While alleging that the petitioner had caused wrongful loss to the complainant and his firm with a dishonest intention to cheat, he prayed for taking action in the matter. After registration of FIR, investigation proceedings have been initiated and are underway. Apprehending his arrest, the petitioner moved an application for grant of pre arrest bail which was dismissed by the Court of learned Additional Sessions Judge, Ludhiana vide order dated 10.03.2025.

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3. It is argued by learned counsel learned counsel for the petitioner that he has been falsely implicated in this case to bypass the proceedings initiated under Section 138 of Negotiable Instruments Act, 1881 (For short “Act, 1881”) by the complainant prior to lodging of FIR of this case. This FIR is an abuse of process of law. The ingredients for commission of offences punishable under Sections 406 and 420 of IPC are not made out as against the petitioner. Both these offences are even otherwise antithesis to each other. The complainant has filed four complaints under Section 138 of Act, 1881 which are pending. The petitioner has sent replies to these legal notices claiming those cheques were security cheques which have been misused. The complainant did not supply goods as mentioned in the invoices to the petitioner but by depositing GST and wrongly showing delivery of goods, manufactured false bills and then presented the cheques already given by the petitioner. The dispute between the parties is of civil nature and has been mainly given a criminal colour. The petitioner is ready to settle the dispute and to join the investigation. No recovery is to be effected from him. His custodial interrogation is not required. It is, therefore, argued that the petition deserves to be allowed. To fortify his argument, learned counsel has placed reliance upon authorities cited as **Rikhab Birani and another and another v. State of Uttar Pradesh and another**, 2025 INSC 512 and **Delhi Race Club (1940) Ltd. and others v. State of Uttar Pradesh**

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**and another**, 2024(4) RCR (Criminal) 173.

4. Per contra, learned Assistant Advocate General, Punjab assisted by learned counsel for the complainant has argued that there are serious allegations against the petitioner who has caused wrongful loss to the tune of Rs.1,51,59,917/- to the complainant by purchasing CR Coils and CR Sheets from him and by not making payment of the same. He kept on promising the complainant to discharge his liability. The cheques as issued by him have also been dishonoured. The ingredients for commission of the offences for which the petitioner has been booked are prima facie attracted. His custodial interrogation is required for conducting thorough investigation of the matter and for effecting recovery. No extraordinary or exceptional circumstance for grant of bail has been made out. Accordingly, it is argued that the petition does not deserve to be allowed.

5. This Court has considered the rival submissions.

6. The petitioner is alleged to have purchased CR Coils and CR Sheets worth Rs.1,51,59,917/- from the complainant but is alleged to have failed to make payment of the amount due against him/his firm. He has been booked for commission of offences punishable under Sections 406 and 420 of IPC. As per settled position of law both these offences cannot co-exist simultaneously in the same set of facts and they are antithetical to each other. As observed in **Delhi Race Club (1940) Ltd.'s**

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case (Supra), every act of breach of trust may not result in penal offence of criminal breach of trust. There can be a civil remedy for non-payment of the consideration amount. Given the nature of the allegations as levelled against the petitioner, it is a debatable question as to whether the same constitute an offence of criminal breach of trust or of cheating? Complaints filed under Section 138 of Act, 1881 by the complainant qua the cheques which were allegedly issued for discharging the liability of the petitioner having arisen out of the same transaction, are pending. In view of the above discussed facts and circumstances but without meaning to make any comment on the merits of the case, this Court is of the opinion that a case for grant of pre arrests bail is made out in favour of the petitioner. Accordingly, the petition is allowed and the petitioner is ordered to be extended benefit of anticipatory bail, subject to his surrendering before the Investigating Officer/Arresting Officer within a period of one week from the date of passing of this order and shall join investigation and on his surrender within that period, he shall be released on bail by the Investigating Officer/Arresting Officer on furnishing personal/surety bonds to its satisfaction and subject to the following conditions:-

- (i) the petitioner shall cooperate with the investigation and shall appear before the Investigating officer/Arresting officer as and when required.

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(ii) He 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/her from disclosing such facts to the Court or to any Police Officer.

(iii) He shall not commit any similar offence while on bail.

(iv) He shall not leave the country without prior permission of the Court.

(iv) He shall deposit his passport if any, with the jurisdiction Magistrate/trial Court.

7. In case of violation of any of the above conditions, the jurisdictional Court shall be empowered to consider the application for cancellation, if any, and pass appropriate orders in accordance with law.

8. It is clarified that observations made hereinabove shall not be construed as an expression of opinion on the merits of the case.

**(MANISHA BATRA)**  
**JUDGE**

**13.05.2025**  
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Whether speaking/reasoned  
Whether reportable

Yes/No  
Yes/No