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

**CRM-M No.38074 of 2025  
Date of Decision: 24.07.2025**

**Pankaj Kumar**

**..... Petitioner**

**Versus**

**State of Punjab**

**..... Respondent**

**CORAM : HON'BLE MR. JUSTICE RAJESH BHARDWAJ**

**\*\*\***

Present: Mr. Sanjeev Kumar, Advocate  
for the petitioner.

**\*\*\***

**RAJESH BHARDWAJ, J.**

1. Present second petition has been filed praying for the grant of anticipatory bail to the petitioner in case bearing FIR No.0138, dated 27.10.2024, under Section 303(2) of BNS, 2023, registered at Police Station Model Town, District Ludhiana. Further prayer has been made for staying the arrest of the petitioner during the pendency of the present petition.

2. The petitioner had earlier approached this Court praying for the grant of anticipatory bail by way of filing **CRM-M No.28589 of 2025**, however after hearing at length, when this Court was not inclined to grant anticipatory bail to the petitioner, the same was allowed to be dismissed as withdrawn vide order dated 23.05.2025 by passing the following order:



*“Prayer in the present petition, filed under Section 482 of the (erstwhile Section 438 of the Cr.P.C.), is for grant of anticipatory bail to the petitioner in a case FIR No.138 dated 27.10.2024, registered under Sections 303(2) of the BNS, 2023, at Police Station Model Town, Ludhiana.*

*After arguing for some time, learned counsel for the petitioner prays for withdrawal of the present petition, with liberty to surrender before the trial Court and file an appropriate bail application and also prays that the trial Court may be directed to decide his bail application in a time bound manner.*

*Allowed to do so.*

*Dismissed as withdrawn, with liberty as prayed for. If the petitioner surrenders before the trial Court within a period of seven days from today and files an application for bail, then the trial Court shall decide the same within a period of seven days from the date of filing thereof, in accordance with law.”*

3. Learned counsel for the petitioner has relied upon the judgment passed by the Hon’ble Supreme Court in ‘**Rani Dudeja vs. State of Haryana**’, 2017(13) SCC 555 and has submitted that the second petition is maintainable.

4. Succinctly the facts of the case are that FIR in the present case was got registered on the statement of complainant, namely, Raj. It was alleged that on 18.10.2024, he parked his motorcycle outside his shop at 9:00 a.m. When at 6:00 p.m., he came out to the shop, he found his motorcycle having been stolen. On checking the CCTV camera installed, he found one unknown sikh having taken away his motorcycle.



Thus the request was made to take legal action against the accused. On registration of the FIR, the investigation commenced. During the investigation, complicity of the petitioner surfaced and thus he was arrayed as an accused in the present case. Apprehending arrest, the petitioner approached the Court of learned Additional Sessions Judge, Ludhiana praying for the grant of anticipatory bail. However after hearing both the sides, finding no merit in the same, the learned Additional Sessions Judge, Ludhiana dismissed the petition filed by the petitioner vide order dated 24.04.2025. Being aggrieved, the petitioner earlier approached this Court by way of filing **CRM-M-28589-2025**, however the same was allowed to be dismissed as withdrawn vide order dated 23.05.2025 as mentioned above. Hence being aggrieved, the petitioner is before this Court by way of filing the present second petition praying for the grant of anticipatory bail.

5. Learned counsel for the petitioner has submitted that the second petition is maintainable. He has submitted that the petitioner has been falsely implicated on the basis of disclosure statement of co-accused, namely, Bhupinder Singh, who was alleged that he sold the stolen motorcycle to the petitioner. He has submitted that the disclosure statement of co-accused is not even an admissible evidence. He has further submitted that the FIR was registered after a delay of 9 days of occurrence. He has submitted that except the disclosure statement, there is no evidence against the petitioner and thus, there being no *prima facie*



case having been made out against the petitioner, he deserves to be granted anticipatory bail.

6. Notice of motion.

7. On asking of the Court, Mr. J. S. Arora, DAG, Punjab appears and accepts notice on behalf of the respondent-State.

8. *Per contra*, learned State counsel has opposed the submissions made by learned counsel for the petitioner. He has submitted that the stolen motorcycle was purchased by the petitioner. He has submitted that the petitioner is involved in one more case. He has submitted that the investigation is at the initial stage. He has submitted that no case for the grant of anticipatory bail to the petitioner is made out and thus, the present petition deserves to be dismissed.

9. I have heard learned counsel for the parties and perused the record with their able assistance.

10. There is no dispute to the law relied upon by learned counsel for the petitioner as held by the Hon'ble Supreme Court. However the Hon'ble Supreme Court has specified that the second petition for anticipatory bail is not barred in the change of circumstances. Learned counsel for the petitioner has failed to satisfy the Court the change in circumstances from the earlier petition filed. Even otherwise, the petitioner was alleged to have purchased the motorcycle stolen by the co-accused.

11. 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.”*

12. 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.”*

13. 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.”*

14. 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



found. Needless to say, the investigation is at the initial stage and in the facts and circumstances, custodial interrogation of the petitioner would be essential and granting anticipatory bail to the petitioner at this stage would scuttle the ongoing investigation.

15. In view of the overall facts and circumstances of the case, the petitioner does not qualify for the grant of anticipatory bail and thus, the present second petition is hereby dismissed. Nothing said herein shall be treated as an expression of opinion on the merits of the case.

**24.07.2025**

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

**(RAJESH BHARDWAJ)**  
**JUDGE**