

2025:PHHC:096437



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

**CRM-M-40901-2025
DECIDED ON: 31.07.2025**

ASHOK KUMAR

.....PETITIONER

VERSUS

STATE OF PUNJAB

.....RESPONDENT

CORAM: HON'BLE MR. JUSTICE SANDEEP MOUDGIL

Present: Mr. Sharwan Sehgal, Advocate with
Ms. Mehak Sharma, Advocate
for the petitioner.

SANDEEP MOUDGIL, J (ORAL)

1. Prayer

The jurisdiction of this Court has been invoked under Section 482 BNSS, 2023 for grant of anticipatory bail to the petitioner in FIR No. 0180 dated 09.07.2025 (Annexure P-1) under Sections 420, 120-B of IPC, registered at Police Station Division No.8, Ludhiana.

2 Contention

On behalf of the petitioner

Learned counsel for the petitioner submits that the petitioner has been falsely implicated in the present case. The complainant has also filed a complaint under Section 138 of NI Act against the son of the petitioner and the alleged transaction has taken place with M/s Deep Bangles. It is contended that the petitioner has no concern with the present FIR and that he is a person of clean

antecedents. It is further emphasised that a civil dispute is already pending between the parties and in order to harass and pressurize the petitioner, the present FIR has been lodged. He undertakes on behalf of the petitioner that he is ready to join the same. Therefore, their custodial interrogation is not warranted.

Notice of motion.

On behalf of the State/complainant

On the asking of Court, Mr. TPS Walia, AAG Punjab accepts notice on behalf of respondent/State, whereas Mr. Naveen Bawa, Advocate has put in appearance on behalf of complainant and filed his memorandum of appearance, which is taken on record.

Learned counsel appearing on behalf of the complainant prays for dismissal of the present petition stating that all the accused persons have hatched a criminal conspiracy to cheat and defraud the complainant for an amount of Rs.13,08,000/- and 1140 grams of 24 karat gold and their custodial interrogation is required to unearth the said conspiracy.

It is also an assertion made by the State that a huge amount is involved in the case at hand, therefore the petitioner does not deserve the concession of anticipatory bail.

3. **Analysis**

Be that as it may, by application of judicial mind upon the submissions made by both the counsels, and the provisions and principles of law in question, the court believes it apposite to discuss the foundational jurisprudence of Section 482, BNSS dealing with Anticipatory Bail. All laws enacted by the legislature must always be in the spirit of and in consonance with the Constitution of India, upholding the tenets of the grundnorm of the nation. The 41st Law Commission Report advocating for the introduction of the provision of

Anticipatory Bail highlighted its importance in protection of Article 21 of Constitution of India that is “the right to life and personal liberty”.

This Court cannot ignore the fact that arrest deprives an individual of his personal liberty, thus the concept of bail is inextricably linked to the right enshrined under Article 21 of the Constitution of India. The protection of bail flows from the provisions given under Criminal Law of the country, specifically the facet of anticipatory bail, introduced to prevent misuse of the legal process, especially in situations where criminal complaints are used as tools of harassment.

In support of the above, dependence can be placed upon the judgment passed by the Supreme Court in ***Balchand Jain v. State of Madhya Pradesh AIR 1977 SC 366***, wherein it was observed that anticipatory bail serves as a safeguard for personal liberty, preventing undue harassment by the police or complainants. The relevant paragraph of the said judgment reads as under:

“Now, this power of granting 'anticipatory bail' is somewhat extraordinary in character and it is only in exceptional cases where it appears that a person might be falsely implicated, or a frivolous case might be launched against him, or "there are reasonable grounds for holding that a person accused of an offence is not likely to abscond, or otherwise misuse his liberty while on bail" that such power is to be exercised. And this power being rather of an unusual nature, it is entrusted only to the higher echelons of judicial service, namely, a Court of Session and the High Court. It is a power exercisable in case of an anticipated accusation of nonbailable offence and there is no limitation as to the category of nonbailable offence in respect of which the power can be exercised by the appropriate court. “

The Court believes it necessary that the power under Section 482, BNSS must be exercised *Ex Debita Justitia* to prevent the abuse of law and unsolicited harassment to the petitioner, the cardinal rules of criminal jurisprudence regarding presumption of innocence of an accused until he is found guilty and the sanctity of his individual liberty must favor the petitioner at this stage.

Moreover, the Apex Court in ***Siddharam Satlingappa Mhetre v. State of Maharashtra AIR 2011 SUPREME COURT 312***, while discussing the concept of personal liberty in tune with Section 482, BNSS in depth, opined that anticipatory bail is a shield for individuals falsely implicated, noting as below:

“Irrational and Indiscriminate arrest are gross violation of human rights. In Joginder Kumar's case (supra), a three Judge Bench of this Court has referred to the 3rd report of the National Police Commission, in which it is mentioned that the quality of arrests by the Police in India mentioned power of arrest as one of the chief sources of corruption in the police. The report suggested that, by and large, nearly 60% of the arrests were either unnecessary or unjustified and that such unjustified police action accounted for 43.2% of the expenditure of the jails.

127. Personal liberty is a very precious fundamental right and it should be curtailed only when it becomes imperative according to the peculiar facts and circumstances of the case.”

Stemming from the aforementioned deliberations and guided by the immortal words of Mahatma Gandhi,

“To deprive a man of his natural liberty and to deny him the ordinary amenities of his life, is worse than starving the body; it is starvation of the soul, the dweller in the body.”

The Court opines that in wake of the fact that no specific allegations have been attributed to the petitioner and, the State has failed to produce any incriminating material connecting the petitioner with the commission of the alleged offence, this Court deems it appropriate to exercise the discretion under Section 482 of BNS, 2023. Also it is an admitted fact that a civil suit for specific performance of the agreement to sell dated 17.02.2021 whereby the complainant (defendant in the civil suit) had agreed to sell Shop No. B-4-618, is already pending between the petitioner and the complainant and, thus the present FIR could potentially be an arm-twisting tactic applied by the complainant to coerce the petitioner.

Given the circumstances, finding out the truth is a herculean task and the possibility of false implication of the petitioner cannot be ruled out. In consequence of the above discussed legal spectrum and settled precedents, this Court is persuaded to believe that there is no valid or cogent reason to deny the petitioner the concession of anticipatory bail, wherein he has *bona fide* intentions and is ready and willing to join the investigation and cooperate for furtherance of the same so that the final report can be submitted by the Investigating Agency in time.

4. **Relief:-**

Hence, the petitioner is directed to be released on anticipatory bail subject to his joining investigation with the Investigating Officer concerned within a period of one week from today, on furnishing of personal/surety bonds to the satisfaction of Arresting Officer/Investigating Officer. The petitioner shall also

abide by the terms and conditions as envisaged under Section 482(2) of BNSS, which are reproduced below:-

'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.'

However, it is made clear that in case the petitioner does not comply with the aforesaid direction of joining the investigation within a period of one week, the order passed by this Court today shall automatically stands cancelled.

In the aforesaid terms, the present petition stands allowed.

(SANDEEP MOUDGIL)
JUDGE

31.07.2025

Meenu

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No