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

**320**

**CRM-M No.23408 of 2025  
Date of decision: 07.07.2025**

Rajwinder @ Rajvinder Singh

... Petitioner

Vs.

State of Punjab and another

... Respondents

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

Present:- Mr. Dinesh Nagar, Advocate,  
for the petitioner.

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

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

1. The instant one is the third petition under Section 482 of the Bharatiya Nagarik Suraksha Sanhita, 2023 (For short "BNSS") for grant of pre arrest bail as filed by the petitioner in case arising out of FIR No.91 dated 16.05.2017 registered under Sections 406 and 420 of IPC and Section 24 of Immigration Act at Police Station Phase 1, Mohali. His first petition was dismissed vide order dated 28.03.2018 and the second petition as filed by him had been dismissed by this Court on 12.11.2024.

2. The allegations against the petitioner are that he had induced the complainant Rajni to part with a sum of Rs.4,75,000/- on the pretext

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of sending her husband to Italy and Georgia. However, he failed to send him there even after taking money and also failed to return the same. The second petition as filed by him, had been dismissed by making following observations:-

“6. *The first and foremost question that arises before this Court for consideration is as to whether the present petition is maintainable, especially when the present one is the second petition for grant of pre-arrest bail and that too it has been filed by an accused who has already been declared a proclaimed offender by the learned trial Court ? Admittedly, the petitioner had been declared a proclaimed offender by the learned trial Court on 02.08.2018. The well settled proposition of law is that filing of an anticipatory bail cannot be treated as appearance before a Court by a person against whom proceedings under Section 82 of Cr.P.C. are pending or who has been declared a proclaimed offender/person. Reference in this regard can be made to a recent pronouncement of Hon’ble Supreme Court reported as **Srikant Upadhyay and others v. State of Bihar and another, AIR 2024 SC 1600**, wherein, the accused filed an application for pre-arrest bail after coming to know about the fact that proceedings under Section 82 of Cr.P.C. were initiated against them. It was observed that such conduct of the accused did not entitle them to seek benefit of pre arrest bail. Reference can also be made to **Prem Shankar Prasad v. State of Bihar and another, (2022) 14 SCC 516**, wherein the Hon’ble Supreme Court took note of the fact that the accused was absconding and concealing himself to avoid service of warrant of arrest and moved application for grant of pre arrest bail after proceedings under Sections 82/83 Cr.P.C. were initiated against him and rejected the plea of the accused for grant of pre arrest bail. In the present case also, the petitioner has admittedly been declared*

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*a proclaimed offender and such order has not been quashed by any competent Court. Hence, in view of the above discussion, this Court is of the considered opinion that the petition is not maintainable and the same deserves outright dismissal.*

7. *Further, as apparent from the records, the first petition of the petitioner seeking grant of pre-arrest bail was dismissed by this Court on 28.03.2018 and he has filed the present petition with the same prayer alleging change in circumstance as he has effected compromise in some of the cases registered against him. So far as the question of maintainability of the present petition being the second one is concerned, the position of law in this regard has been discussed in the authorities cited as **Dr. Fakir Chand Hembram @ Phakir Chand Hembram vs. State of Jharkhand through Vigilance, 2008 (28) R.C.R. (Criminal) 425; Sri Sudip Sen vs. The State of West Bengal, 2012 (7) R.C.R. (Criminal) 12 and Bhisham Singh vs. State of Haryana, 2024 NCPHHC 48105.** The principles of law as culled out from these citations are that though second/successive anticipatory bail is maintainable and cannot be rejected only on the ground of maintainability thereof but for such petition to succeed, the petitioner must show some substantial change in the circumstances/fact situation and it would not be sufficient to show a mere superficial or ostensible change. There must be some change in the fact situation or in law requiring the earlier view to be interfered with. Considering the fact of the present case in view of the above discussed position of law with regard to the maintainability of the second petition for grant of anticipatory bail, the only ground which has been pressed by learned counsel for the petitioner for this purpose is that the petitioner has effected compromise with in some of the cases and in two cases, he stands acquitted on the basis of the compromise. Even otherwise, it is not the case of the petitioner that he has arrived at*

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*any compromise with the present complainant and has paid her the disputed amount. The circumstance as stated by the petitioner does not appeal to this Court to be a sufficient reason amounting to some specious and substantial change in the fact situation. More so, the allegations against the petitioners are quite serious and he seems to be a habitual offender, keeping in view his criminal antecedents. Hence, in the considered opinion of this Court, the custodial interrogation of the petitioner is required for thorough and proper investigation in the matter.*

8. *It is well settled proposition of law that arrest is a part of procedure of the investigation to secure not only the presence of the accused but several other purposes. The powers of anticipatory bail are extra ordinary and the same are to be exercised sparingly in exceptional circumstances. The judicial discretion conferred upon the Court has to be properly exercised after application of mind as to the nature and gravity of the accusation, possibility of applicant fleeing from justice and other factors to decide whether it is a fit case for grant of anticipatory bail as such grant to some extent interferes in the sphere of investigation of an offence. The Court has also to see that an order of anticipatory bail should not operate as inroad in the normal legal procedure of criminal cases by the trial Court. The custodial interrogation of a suspected person is qualitatively more elicitation oriented than questioning a suspect who is well ensconced with a favourable order under Section 482 of BNSS. The Court must be circumspect while exercising such power for grant of anticipatory bail and it should not be granted as a matter of rule and has to be granted only when the Court is convinced that exceptional circumstances exist to resort to that extra ordinary remedy. In the present case, no such exceptional circumstances warranting exercise of the powers for grant of anticipatory bail by this Court are existing. As such, I am of the*

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*considered opinion that the petition does not deserve to be allowed. Accordingly, the same is dismissed.”*

3. It is argued by learned counsel for the petitioner that his previous petition had been dismissed due to the reason that he had been declared a proclaimed person. He had challenged the order declaring him as a proclaimed person by filing a petition before this Court which was disposed of vide order dated 05.03.2025. He had moved application before trial Court for grant of pre arrest bail thereafter. However, his application has been dismissed. He is ready to join the investigation. His custodial interrogation is not required. He does not have remain a proclaimed person any more. No recovery is to be effected from him. It is, therefore, argued that the petition filed by him deserves to be allowed.

4. Status report has been filed. Learned Assistant Advocate General, Punjab has argued that the petitioner is a habitual offender. As apart from the FIR of this case, eight other FIRs have been registered against him. Though the order declaring him as a proclaimed person has been ordered to be set aside subject to certain conditions, however, for conducting thorough and proper investigation in the matter, his custodial interrogation is must. Recovery of the money which had been taken by him from the complainant to cheat her, is to be effected. No exceptional ground for grant of anticipatory bail has been made out in his favour. It is, therefore, argued that the petition does not deserve to be allowed.

5. This Court has considered the rival submissions.

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6. The petitioner was declared a proclaimed person vide order dated 02.08.2018. He challenged the said order by filing a petition bearing CRM-M-12289-2025 before this Court which was allowed subject to his surrendering before the trial Court and seeking regular bail or subject to order for grant of pre arrest bail and thereafter he filed application before the Court of learned Additional Sessions Judge, Mohali that was dismissed on 26.03.2025 and now before this Court. The allegations against him are that he duped the complainant of an amount of Rs.4,75,000/-. He has criminal antecedents as he is shown to be involved in eight more cases of simliar nature. For conducting proper and thorough investigation in the matter and for the purpose of effecting recovery, the custodial interrogation of the petitioner is must. The powers of anticipatory bail are extra ordinary and the same are to be exercised sparingly in exceptional circumstances. The custodial interrogation of a suspected person is qualitatively more elicitation oriented than questioning a suspect who is well ensconced with a favourable order of anticipatory bail. In the present case, no such exceptional circumstances warranting exercise of the powers for grant of anticipatory bail by this Court are existing. Keeping in view the gravity thereof, the role attributed to the petitioner, the likelihood of his influencing the course of investigation and also of tampering with the evidence, no ground has been made out for allowing the petition. As such, this Court is of the

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considered opinion that the petition does not deserve to be allowed. Accordingly, the same is dismissed.

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

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

**07.07.2025**

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Whether speaking/reasoned

Yes/No

Whether reportable

Yes/No