



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

213

**CRM-M-57483-2024
Date of Decision: 03.04.2025**

Gagandeep

...Petitioner

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MR. JUSTICE ANOOP CHITKARA

Present: Mr. Onkar Rai, Advocate,
for the petitioner.

Ms. Navreet Kaur Barnala, AAG, Punjab.

Mr. Rajesh Bhateja, Advocate,
for the complainant.

ANOOP CHITKARA, J.

FIR No.	Dated	Police Station	Section
161	02.11.2024	City-1, Malerkotla, Distt. Malerkotla	127 of BNS

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

2. In paragraph 10 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 pursuant to the said orders, it is respectfully submitted that brief facts of the present case are that on dated 02.11.2024, the complainant, Mohammad Iqbal, retired Principal Govt. College Malerkotla son of Ahmed Deen, resident of Batta Hospital Street, College Road, Malerkotla got recorded his statement before the police to the effect that his daughter Sadiya is an adult child as her date of birth is of the year 1991, who had passed B.ED. On dated 24.09.2024, at about 1.00/2.00 PM, her daughter Sandiya left the house and on dated 25.09.2024, Mohd. Iqbal, the complainant went to the Police Station City-1 Malerkotla and got recorded DDR No.13 in this regard that they have no doubt on any person. Thereafter, they came to know that Sadiya, the daughter of the



complainant was in contact through mobile with Gagandeep (present petitioner) and they have full belief that Gagandeep has kept their daughter Sadiya in his illegal custody. Therefore, it was requested that necessary legal action be taken against said Gagandeep.”

4. The petitioner's counsel prays for bail by imposing any stringent conditions including surrender of fire arms and not enter the property, workplace and residence of the complainant and contends that pre-trial incarceration would cause an irreversible injustice to the petitioner and his family.

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:

“11. That this case is at preliminary stage of investigation and mode and manner of the commission of offence is highly required to ascertain and to ascertain as to where the aforesaid daughter of the complainant is at present, for which custodial interrogation of the petitioner is highly required. On the completion of investigation, the final report will be prepared and after the scrutiny from the prosecution agency, the same will be presented before the Court of learned Area Magistrate.”

7. Counsel for the complainant opposes the bail on the ground that the girl in question is still not traced.

8. On this, counsel for the petitioner submits that petitioner has no role at all in missing the girl and in case the girl is found to be not alive or died in unnatural death, he would have no objection in case State will file an application for cancellation of bail and he will file a fresh bail application.

REASONING:

9. Given the undertaking made by petitioner that in case the girl is found to be dead and died unnatural death, then this order granting bail to the petitioner shall be recalled by giving liberty to the petitioner to file a fresh anticipatory bail application in view of the evidence attributed against the petitioner and changed circumstances.

10. At this stage, no ground is made out to deny bail to the petitioner. 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.



11. 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.

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.

16. The petitioner shall abide by all statutory bond conditions and appear before the concerned Court(s) on all dates. The petitioner shall not tamper with the evidence, influence, browbeat, pressurize, induce, threaten, or promise, directly or indirectly, any witnesses, Police officials, or any other person acquainted with the facts and circumstances of the case or dissuade them from disclosing such facts to the Police or the Court.

17. 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.

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

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

20. 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.

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

**(ANOOP CHITKARA)
JUDGE**

03.04.2025
Jyoti-II

Whether speaking/reasoned: Yes
Whether reportable: No.