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

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Date of decision: 30.09.2025

Hitesh Kumar

...Petitioner

V/s

State of Haryana and another

...Respondents

CORAM: HON'BLE MR. JUSTICE SUMEET GOEL

Present: Mr. Sahil Goel, Advocate for the petitioner.

(through V.C.)

Mr. Gurmeet Singh, AAG Haryana.

Mr. Vansh Chawla, Advocate for the respondent No.2.

SUMEET GOEL, J. (Oral)

1. The present petition is the second attempt under Section 482 of Bharatiya Nagarik Suraksha Sanhita, 2023 (hereinafter to be referred as 'the BNSS') for grant of pre-arrest/anticipatory bail to the petitioner in case bearing FIR No.0106 dated 07.06.2021, registered for the offences punishable under Section 406, 420 of IPC (Sections 467, 468, 471, 120-B of IPC added later on) at Police Station Saha, District Ambala.

2. The gravamen of the FIR pertains to allegations of cheating and criminal breach of trust involving the complainant. The complainant namely Sarojani Nautiyal, resident of Varun Enterprise, 383 HSIIDC, Saha, Ambala, Haryana, alleged that she was cheated by accused Hitesh Kumar (petitioner herein), Kamal Singh, Deepak, Verma and Deepak Pandey pretending to be insurance agents of PNB MetLife, Chandigarh. As per the complainant, the aforesaid persons had sold her a fake insurance policy of amounting to Rs.12,40,000/- and issued a false receipt showing



Rs.15,00,000/- with rebate included. When the complainant later visited the PNB MetLife office in Sector 17, Chandigarh, she was informed that these persons are not the employees/agents of the company and that the receipt given to her was fake. The complainant alleged that she had suffered financial loss on account of the fraud played upon her by the aforesaid accused. On these set of allegations, instant FIR was registered and investigation ensued.

3. The petitioner had earlier applied for grant of pre-arrest/anticipatory bail before this Court which was dismissed on 16.08.2021. The relevant part of said order reads as under:-

“It is not case a where the petitioner is claiming himself to be a stranger to the allegations alleged against him in the FIR. It has been further admitted that for selling the fake policies to the complainant, a sum of Rs.2 lakhs was given to the petitioner out of the total of Rs.12.5 lakhs received, though as per the petitioner the said amount has been taken away by co-accused, namely, Kamal Singh. Trail of the amount received by selling these forged policies needs to be ascertained for which the custodial interrogation is necessary. Not only this, the police needs to carry out investigation so as to find out whether other innocent people have been sold forged policies by the petitioner, which can only be done by way of custodial interrogation.

Keeping in view the facts and circumstances of this case and the allegations alleged against the petitioner, no ground is made out to grant the benefit of anticipatory bail.

Dismissed.

However, it is made clear that anything observed herein shall not be construed to be an expression of any opinion on the merits of the case.”

Thereafter, the present petition (i.e. the second petition for grant of anticipatory/pre-arrest bail) has been preferred by the petitioner on 08.09.2025.



4. Learned counsel for the petitioner has iterated that he is working as a clerk with Punjab National Bank for the past 08 years and has been falsely implicated solely on account of his acquaintance with co-accused Kamal Singh and his associates Ajay Kumar and Des Raj. Learned counsel has further iterated that the petitioner alongwith co-accused Kamal Singh has jointly sold only one insurance policy to the complainant in the year 2019 which is not part of the present dispute. The allegations contained in the FIR pertains to a third policy wherein amount of Rs.8,40,000/- and Rs.2,00,000/- were received in cash by co-accused Kamal Singh and one cheque of Rs.2,00,000/- issued to the petitioner was alleged taken away by co-accused Kamal Singh. It has been further iterated that the sister of the petitioner, who has also been implicated into the FIR in question, has already been granted the concession of anticipatory bail. According to learned counsel, the petitioner has already entered into a compromise with the complainant on 08.07.2025 and paid Rs.2,00,000/- by way of demand draft. Learned counsel has further argued that the petitioner is innocent and has been falsely arrayed as an accused. Furthermore, nothing is to be recovered from the possession of the petitioner and hence his custodial interrogation is neither warranted nor justified. Moreover, there is no likelihood of the petitioner absconding from the process of justice in case he is enlarged on pre-arrest bail. On the basis of the aforementioned submissions, the grant of the instant petition is entreated for.

5. *Per contra*, learned State counsel has opposed the grant of anticipatory bail to the petitioner by arguing that the allegations raised against the petitioner are serious in nature. Learned State counsel has



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iterated that the petitioner is not merely an acquaintance but an active participant in the fraudulent scheme. According to learned State counsel, the receipt of cheque of Rs.2.00 lacs by the petitioner from the complainant indicates his involvement in the conspiracy. The custodial interrogation of the petitioner is necessary to uncover the full extent of the conspiracy and trace the money trail. Moreover, the part payment and compromise do not absolve the petitioner of criminal liability under Sections 406 and 420 of IPC which are serious and non-compoundable. In this view of the matter, dismissal of the instant petition is prayed for.

6. Learned counsel appearing for the complainant has raised submission in tandem with the learned State counsel. Learned counsel has emphasized that there is no compromise entered into by the complainant with the petitioner and hence no ground is made out for the grant of anticipatory bail to the petitioner.

7. I have heard the learned counsel for the rival parties and have gone through the available record of the case.

8. It would be apposite to refer herein to a judgment passed by this Court in ***Bhisham Singh vs. State of Haryana, 2024:PHHC:048105***; relevant whereof reads as under:-

10. The pivotal issue, in any plea for grant of bail whether anticipatory bail or regular bail, is the liberty of an individual. Liberty occupies a place of pride in our society and jurisprudence. The framers of the Constitution hence provided inter alia in Article 21 of our Constitution that no person shall be deprived of his personal liberty except according to procedure established by law. The Cr.P.C. is one such procedural law which permits curtailment of liberty of antisocial and antinational elements. Hence while interpreting any aspect pertaining to bail, a Court ought to keep the above concept in cardinal focus.



10.1 *An analytical perusal of Cr.P.C. would elucidate that this statute does not contain any provision relatable to maintainability or otherwise of second/successive bail petitions, including one(s) seeking anticipatory bail. Once there is no statutory prohibition provided for in law, a Court is not logically empowered to import into it such prohibitions especially in case of codified and legislated law. It is trite law that Courts ought not to read a provision in codified law which has not been specifically provided for by the legislature especially when such reading results into deprivation of rights.*

10.2 *The Hon'ble Supreme Court in case of **Babu Singh** case (supra) has held that rejection of a bail petition does not, by itself, forbid a Court from considering another one later in point of time. It can be safely inferred that the decision of a Court qua bail petition (whether regular bail petition or anticipatory bail petition) is essentially an interlocutory order and hence the concept of res judicata does not apply. Almost all the Hon'ble High Courts have enunciated the view that second/successive plea(s) for grant of anticipatory bail is maintainable albeit with some circumspection and material change of circumstance(s) being a prime requirement. The full bench of Hon'ble Rajasthan High Court in case of **Ganesh Raj** case (supra), the full bench of Hon'ble Calcutta High Court in case of **Sri Sudip Sen** case (supra), the division bench of Hon'ble Andhra Pradesh High Court in case of **K.Gajendra Naidu** case (supra), the division bench of Hon'ble Madhya Pradesh High Court in case of **Imratlal Vishwakarma** case (supra) and the division bench of Hon'ble Gauhati High Court in case of **Runu Roy** case (supra) have, inexorably, echoed this exposition.*

10.3 *Judicial experience indicates that, more often than not, an attempt is made by the non-applicant i.e. the State/complainant/victim to differentiate between the situations wherein first/earlier anticipatory bail petition has been dismissed as withdrawn/dismissed as not pressed vis-à-vis where the earlier petition has been dismissed on merits thereof. In other words, it is canvassed that where the first/earlier petition has been dismissed as withdrawn, that the petitioner/applicant-accused has given up on his right(s) and hence subsequent anticipatory bail petition is not maintainable. The Hon'ble Supreme Court in case of **Rani Dudeja** case (supra) has held that the second anticipatory bail would be maintainable even in case wherein earlier one was dismissed as withdrawn. A division bench of this Court, while answering a reference in this regard, has held in case of **Manjinder Kaur** case (supra) that the second anticipatory bail petition would be maintainable wherein the first one has been dismissed as withdrawn. To the similar effect is the ratio decidendi of a division bench of Madhya Pradesh*



*High Court in the case of **Imratlal** case (supra). Hence, this seeming conundrum stands set at naught. Accordingly, it is ineluctable that the second/successive petition(s) for grant of anticipatory bail is maintainable even when the first/earlier one was dismissed as withdrawn.*

*10.4 The issue that next craves attention is as to what are the factors/parameters for consideration of second/successive anticipatory bail petition(s). The concordant view of all the Hon'ble High Courts is that the essential prerequisite for consideration of second/successive anticipatory bail petition(s) is material/substantial change in circumstances, unearthing of substantial new material and other factors of akin nature. The Hon'ble Supreme Court in case of **G.R. Ananda Babu** case (supra) has enunciated that specious reason of change in circumstances cannot be relied upon for invoking successive anticipatory bail petition(s). Accordingly, the new grounds pleaded/change in circumstances ought to be substantial in nature.*

10.5 No rigid or universal criteria can possibly be delineated to conclusively govern the exercise of judicial discretion, in determining, as to what would constitute as the above stated substantial change in circumstances. Factual flexibility, one additional or different fact, may make a sea of difference between two cases. There is no gainsaying that each case has its own distinct and unique facts and, hence, exercise of such judicial power is best left to the judicial discretion of a Court in accordance with the settled norms of our jurisprudence.

11. As an epilogue to the above rumination, the following principles emerge:

I Second/successive anticipatory bail petition(s) filed under Section 438 of Cr.P.C., 1973 is maintainable in law & hence such petition ought not to be rejected solely on the ground of maintainability thereof.

II Such second/successive anticipatory bail petition(s) is maintainable whether earlier petition was dismissed as withdrawn/dismissed as not pressed/dismissed for non-prosecution or earlier petition was dismissed on merits.

III For the second/successive anticipatory bail petition(s) to succeed, the petitioner/applicant shall be essentially/pertinently required to show substantial change in circumstances and showing of a mere superficial or ostensible change would not suffice.

IV No exhaustive guidelines can possibly be laid down as to what would constitute substantial change in circumstances as every case has its own unique facts/circumstance. Accordingly, this issue is best left to



the judicial wisdom and discretion of the Court dealing with such second/successive anticipatory bail petition(s).

V In case a Court chooses to grant second/successive anticipatory bail petition(s), cogent and lucid reasons are pertinently required to be recorded for granting such plea despite such a plea being second/successive petition(s). In other words, the cause for a Court having successfully countenanced/entertained such second/successive petition(s) ought to be readily and clearly decipherable from the said order passed.

VI Once a plea for anticipatory bail has been dismissed as withdrawn/dismissed as not pressed/dismissed for non-prosecution or dismissed on merits by the High Court, no second/successive anticipatory bail petition(s) shall be entertained by a Sessions Court.”

9. Indubitably, the first petition (for grant of anticipatory bail) preferred by the petitioner was dismissed by a Coordinate Bench of this Court on 16.08.2021. The contention(s) raised on behalf of the petitioner that he has been falsely implicated into the FIR in question and he is not involved in selling the policies in question to the complainant, were considered at that time and thereafter the said petition was dismissed. Thereafter, in the instant petition i.e. second petition (for grant of anticipatory bail), the petitioner has reiterated the grounds previously taken (at the time of rejection of the first petition on 16.08.2021).

10. There is no substantial change *nay* any change in circumstances which may weight, in favour of entertaining the instant second petition for bail except the fact that he has entered into compromise with the complainant, which has also been categorically denied by the complainant. *Ergo*, the instant petition deserves dismissal on this score alone. Moreover, the prolonged evasion of the petitioner weighs heavily against the exercise of discretion in his favour under the provisions governing anticipatory bail.



Furthermore, the first petition was dismissed on 16.08.2021 and the instant petition has been preferred after a gap of more than 04 years. It is evident that the petitioner has evaded the process of law for over 04 years. The conduct of the petitioner in avoiding arrest for such a prolonged period without any reasonable cause must be considered while adjudicating this second petition. Process of justice is meant to treat every individual in a manner which is equitable and fair. However; if the petitioner-accused chooses to employ irregular and convoluted tactics, including undue delay, strategically aimed at frustrating the lawful proceedings/investigation, it tantamount to an abuse of the process of justice. While liberty and dignity of an individual must be held high, however, no one can be permitted to subvert and cause devolution in the process of justice. Protracted absence, eluding the process of law and abrupt repetition of pleas for pre-arrest bail, in absence of convincing reason(s) is certainly not an act/behaviour which calls for sympathy/indulgence of the Court. The hiatus of more than 04 years on part of the petitioner (herein) is inexplicable *nay* contumacious. Therefore, the conduct of the petitioner when examined in the backdrop of the nature/severity of allegations made against the petitioner, dis-entitles him for grant of anticipatory bail.

11. Furthermore, no fresh substantial change in circumstances has been brought forward which would indicate that the petitioner is entitled to maintain his second petition for grant of anticipatory bail, except the alleged compromise with the complainant, which has been categorically denied by the complainant herself. However, the existence and validity of such a compromise has not been corroborated by the complainant and therefore, it

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cannot be treated as a substantial or material change in the circumstances. Even if a compromise exists, it cannot override the seriousness of the allegations under Sections 406 and 420 of IPC. All the grounds urged by the petitioner in the present petition have already been considered & decided and view thereupon has been taken vide judgment dated 16.08.2021. From the entire factual conspectus brought forward in the present petition, no fresh ground or circumstance is made out so as to enable the petitioner to file and maintain the second anticipatory bail petition.

12. In view of the preventient ratiocination, it is ordained thus:

(i) The petition in hand is devoid of merits and is hereby dismissed.

(ii) Any observations made and/or submissions noted hereinabove shall not have any effect on merits of the case and the investigating agency as also the trial Court shall proceed further, in accordance with law, without being influenced with this order.

(iii) Pending application(s), if any, shall also stand disposed of.

(SUMEET GOEL)
JUDGE

September 30, 2025

Ajay

Whether speaking/reasoned: Yes/No

Whether reportable: Yes/No