



In the High Court of Punjab and Haryana, at Chandigarh

Criminal Misc. No. M-32949 of 2025

Reserved On: 27.08.2025
Pronounced On: 08.09.2025

Sony Rishi alias Soni Rishi alias Sonu

... Petitioner(s)

Versus

State of Punjab

... Respondent(s)

CORAM: Hon'ble Mr. Justice Surya Partap Singh.

Present: Mr. Ajay Gupta, Advocate
for the petitioner(s).

Mr. Rohit Bansal, Senior Deputy Advocate General,
Punjab, for the respondent.

Ms. Shivya Sehgal, Advocate
for the complainant.

Surya Partap Singh, J.

1. This is first petition under Section 482 of BNSS for grant of anticipatory bail filed by the petitioner. The petitioner is seeking anticipatory bail in a case pertaining to an offence punishable under Section 419, 420, 467, 468, 471 and 120-B IPC, arising out of FIR No. 139 dated 11.306.2025, Police Station Mandi Gobindgarh, District Fatehgarh Sahib. For investigation of above mentioned case, the police is tracing the petitioner. Apprehending his arrest by the police, the petitioner has resorted to present petition for anticipatory bail.

2. Briefly stating the facts emerging from the record are that the above mentioned FIR came into being in the backdrop of the fact that Kashmir Giri alias Kashmir Gir, hereinafter referred to as "the complainant",

had submitted a complaint with regard to formation of fake firms in the name of his two sons, by Mitul Gupta, Harsh Guptam, Ravinder Sharma and others. As per complainant, the fake firms were created to draw undue benefits by defrauding innocent persons viz-a-viz GST Authorities. According to prosecution, on the above mentioned complaint, a Special Investigating Team, hereinafter referred to as "SIT" was constituted and the above mentioned SIT conducted preliminary inquiry wherein it was revealed that the petitioner was proprietor of M/s Neelkanth Enterprises, a firm duly registered with GST Authorities, and that on 02.09.2023, the above mentioned firm was converted from proprietorship firm to partnership firm. It was also revealed during the course of investigation that on 11.08.2022, another firm, namely M/s Shivam Ispat Bhandar had purportedly sold a plot measuring 3 bighas 19 biswas, situated within the revenue estate of village Kumb, Mandi Gobindgarh, in favour of M/s Neelkanth Enterprises, through its proprietor Soni Rishi. As per prosecution, during the course of investigation, it came on surface that on 11.08.2022, when the sale deed was executed, the petitioner was lodged in jail and that to facilitate the above mentioned sale deed, one person, namely Ravinder Sharma had impersonated, before the Registration Authority, as Soni Rishi, i.e. the petitioner. According to prosecution, Ravinder Sharma had committed forgery by replacing the photograph of petitioner with his own photograph, on the Aadhar Card of petitioner.

3. It has been alleged by the prosecution that the petitioner as well as his co-accused, namely Ravinder Sharma are still at large.

4. Heard.

5. It has been argued by learned counsel for the petitioner that the petitioner is innocent having no nexus, whatsoever, with the commission of offence and that a very strong plea of alibi is available with the petitioner, as at the time of execution of sale deed dated 11.08.2022, he was in custody. As per learned counsel for the petitioner, once the petitioner was not present at the time of commission of forgery, no criminal liability can be fastened upon him, with regard to forged sale deed, and that in fact, the petitioner himself is a victim of fraud allegedly played by somebody, who appeared before the Registration Authority in the name of petitioner.

6. In addition to above, learned counsel for the petitioner has also argued that the offence is, otherwise, triable by the Court of Judicial Magistrate and nothing is left to be recovered from the possession of the petitioner and therefore, his custodial interrogation is not at all required. According to learned counsel for the petitioner, in the given facts situation, the petitioner is entitled for the benefit of anticipatory bail.

7. Per contra, the learned State counsel has argued that in fact, whatever the forgery has been committed in the present case, it has been committed on account of active connivance of the petitioner with his co-accused, namely Ravinder Sharma. As per learned State counsel, in order to fix the role of petitioner, in the commission of crime, custodial interrogation of the petitioner is of utmost importance in the present case. According to learned State counsel, if opportunity of custodial interrogation of the petitioner is denied to the Investigating Agency, in the present case, the investigation in this case may not take a proper headway and it will amount to injustice to the victim of fraud.

8. The record has been perused carefully,.

9. In the present case, at the very outset, it is pertinent to mention here that the petitioner, who does not have clean antecedents, is seeking extraordinary remedy by claiming the benefit of anticipatory bail. With regard to such relief, the Hon'ble Supreme Court in the case of *Srikant Upadhyay v. State of Bihar 2024 SCC OnLine SC 282*, has observed that power to grant anticipatory bail is extraordinary power, and that irrespective of the fact that in a number of cases, it has been held that bail is a rule, it cannot, by any stretch of imagination, be said that anticipatory bail is a rule.

10. The Hon'ble Supreme Court in the above mentioned case has further observed that rule of anticipatory bail is a question of judicial discretion depending upon the facts and circumstances of each case. According to Hon'ble Apex Court, when called upon to exercise the above said power the Court concerned has to be very cautious, as the grant of interim protection to the accused in serious cases may lead to miscarriage of justice and may hamper the investigation.

11. Similarly, in the case of *Nikita Jagganath Shetty alias Nikita Vishwajeet Jadhav v. The State of Maharashtra and Another (Special Leave Petition (Criminal) No. 10255 of 2024, decided on 21.07.2024)*, the Hon'ble Supreme Court of India has held that anticipatory bail is an exceptional remedy and it ought not to be granted in a routine manner. As per the Hon'ble Supreme Court, there must exist strong reasons for extending indulgence of this extraordinary remedy to a person accused of grave offence.

12. Similarly, in the case of *Gurbaksh Singh Sibba etc. v. State of*

Punjab 1980 SCC (2) 565, the Hon'ble Supreme Court of India has also held that:-

- (1) The power under Section 438, Criminal Procedure Code, is of an extra-ordinary character and must be exercised sparingly in exceptional cases only.
- (2) Neither Section 438 nor any other provision of the Code authorizes the grant of blanket anticipatory bail for offences not yet committed or with regard to accusations not so far levelled.
- (3) The said power is not unguided or uncanalized but all the limitations imposed in the preceding Section 437, are implicit therein and must be read into Section 438.
- (4) In addition to the limitations mentioned in Section 437, the petitioner must make out a special case for the exercise of the power to grant anticipatory bail.
- (5) Where a legitimate case for the remand of the offender to the police custody under Section 167(2) can be made out by the investigating agency or a reasonable claim to secure incriminating material from information likely to be received from the offender under Section 27 of the Evidence Act can be made out, the power under Section 438 should not be exercised.

13. In the light of above mentioned principles of law, if the facts and circumstances pertaining to instant case are examined, it transpires that there is very specific and categorical stand of the prosecution to the effect

that the petitioner himself was involved in a conspiracy of playing fraud on the basis of forged document. In order to fix the role of petitioner in the commission of crime, custodial interrogation of the petitioner is of utmost necessity. In the given fact situation, if this opportunity is denied to the Investigating Agency, the investigation of this case will not take a proper headway and the impact of such denial may scuttle the investigation. Since serious allegations of impersonation before the public authority, i.e. Registration Authority, have been levelled in the instant case, in order to pinpoint the role of each and every accused, custodial interrogation of the petitioner is of utmost importance. Therefore, without commenting anything on the merits of the case, it is hereby held that in the given fact situation the petitioner is of utmost importance. not entitled for the benefit of anticipatory bail.

14. As a sequel to observations made in the foregoing paragraph, the present petition, being devoid of merits, is hereby dismissed.

(Surya Partap Singh)
Judge

September 08, 2025

“DK”

Whether speaking/reasoned :Yes/No

Whether reportable : Yes/No