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207 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-2816-2025
Date of decision: 25.03.2025

EMMANUAL MASIH ALIAS NEELU

...PETITIONER

VERSUS

STATE OF PUNJAB

...RESPONDENT

CORAM: HON'BLE MR. JUSTICE ANOOP CHITKARA

Present: Mr. Amit Arora, Advocate for the petitioner.

Mr. Sukhdev Singh, AAG, Punjab.

ANOOP CHITKARA, J. (ORAL)

Petition for Anticipatory Bail under Section 482 BNSS			
FIR No.	Dated	Police Station	Sections
295	26.12.2024	City Tarn Taran, District Tarn Taran	351(2) of BNS, 2023 and Section 67(A) of Information Technology Act, 2000

1. The petitioners 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. As per paragraph 17 of the bail petition, the accused declares that two more case are pending against him and details of the same are as under:-

Sr. No.	FIR No.	Date/Year	Offenses	Police Station
1.	231	15.07.2023	420 IPC	City Tarn Taran
2.	184	11.9.2024	406, 420, 120-B, 506 IPC	City Tarn Taran

3. The facts and allegations are being taken from the short reply filed by the State, which reads as follows:

"That the true facts pertaining to the present case are that on Mandeep Kaur wife of Kuldeep Singh, resident of Noor Di Adda, Gali



Sharmewali, Tarn Taran got recorded her statement before the investigating officer to the effect that her marriage took place about 20 years ago with Kuldeep Singh son of Kehar Singh, resident of Noor Di Adda, Tarn Taran, according to religious customs. She has two children, her elder son Rajdeep Singh, age about 25 years, and her younger daughter Arshdeep Kaur, age about 22 years, both are married. Her husband Kuldeep Singh son of Kehar Singh, resident of Noor Di Adda, Tarn Taran had disagreements with her about 10 years ago, and now her husband is living with another woman. She is living with her children at her home. Her son's friend Samu Masih son of Gulfam Masih, resident of Purani Kachahri near Church, Tarn Taran, who used to frequently visit their house remained making relations with her under the pretext of marriage and made relations with her. In November 2024, while establishing illicit relations with her, he recorded an obscene video, then Samu Masih started talking to her daughter Arshdeep Kaur's sister-in-law, Ginni wife of Gurmej Singh and formed a relationship with her. When she objected to this, Samu Masih started threatening and blackmailing her. When this came to the notice of Ginni, she said that the obscene video which she has made of Mandeep Kaur, send it to her mobile as she wants to teach her a lesson by stopping her from talking to her. On this, Samu Masih sent the video made by him on 11.12.2024, at 09:51 AM, to Ginni's phone number 98556-11386, and Ginni and Samu Masih posted the video in other groups and made it viral and he made phone call to her and told her that the obscene video made by him has been made viral and now she can do whatever she wants to do and in this regard, the present case FIR No.295 dated 26.12.2024, under Section 351(2) of BNS & 27(A) of the Information Technology Act was registered at Police Station City Tarn Taran, District Tarn Taran against the petitioner namely Samu Masih alisa Emmanuel Masih as well as co-accused namely Ginni."

4. Petitioner's counsle prays for bail by imposing any stringent conditions and contends that pre-trial incarceration would cause an irreversible injustice to the petitioners and their family. He further submits that petitioner already handover the mobile to the Investigator and now nothing is required and recovered from the petitioner.
5. State counsel opposes the bail on the ground that it has been yet to be verified that the petitioner had tampered the mobile phone or in any way deleted the data from it. Counsel for the petitioner submits that no such thing can be done and in case, it is found, he shall have no objection if the State file an application for cancellation of bail.
6. It would be appropriate to refer to the following portions of the reply, which



read as follows:

"That as far as role of the petitioner namely Emmanuel Masih alias Samu Masih is concerned, it is submitted that the firstly, the petitioner has made obscene videos of the complainant and thereafter, in order to take revenge of his insult done by the complainant, he has made the said obscene videos of the complainant viral which result into insulting of her modesty. Moreover, the CDR of the petitioner clearly shows the involvement of the petitioner in committing the above said offence in connivance with the co-accused. As such, the petitioner has committed the serious offence and he is not entitled for the concession of anticipatory bail and his custodial interrogation is utmost required in the present case in order to recover his mobile phone and further to bring the investigation of the present case to its logical conclusion."

REASONING:

7. Mobile phone which was used in crime already handover to Investigator and no recovery is to be made from 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.

8. 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.

9. 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.

10. 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	



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	considers the accused a flight risk.	
3.	Mobile number (If available)	
4.	E-Mail id (If available)	

11. This order is subject to the petitioner's complying with the following terms.

12. 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.

13. 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.

14. 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.

15. 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.

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

17. 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.



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

25.03.2025

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**(ANOOP CHITKARA)
JUDGE**

Whether speaking/reasoned: Yes/No
Whether reportable: Yes/No