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

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CRM-M-62535-2025 (O&M)

Date of decision: 10.11.2025

Kulwinder Singh and another

...Petitioners

V/s

State of Punjab

...Respondent

CORAM: HON'BLE MR. JUSTICE SUMEET GOEL

Present: Mr. Bipan Ghai, Senior Advocate with
Mr. Bhupinder Ghai, Advocate for the petitioners.
Mr. Amit Goyal, Additional Advocate General, Punjab.
Mr. Tahaf Bains, Advocate for the complainant.

SUMEET GOEL, J. (Oral)

1. Present petition has been filed 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 petitioners in case bearing FIR No.158 dated 19.10.2024, registered for the offences punishable under Sections 319(2), 318(4), 336(2), 336(3), 338, 340(2) and 61(2) of BNS, 2023, at Police Station City Khanna, District Ludhiana, Punjab.

2. The FIR was registered on the basis of a complaint made by complainant namely Kulwant Singh, son of Surmukh Singh, resident of Village Dhyanpura, Tehsil Morinda, District Rupnagar against Jagdish Ram, son of Mewa Ram, resident of Village Kulheri, Police Station Morinda, District Rupnagar, and his unknown accomplices. He alleged that he intended to purchase a piece of land and in this regard he came in contact with one Baljit Singh who showed him a piece of land belonging to Gurmail Singh, Narinder Singh, Avtar Singh, and Nirmal Singh, all sons of



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Prem Singh son of Karam Singh, situated at Village Asgaripur, Tehsil Khanna, District Ludhiana. On 23.08.2024, the complainant executed an agreement to sell with the said individuals. It has been further alleged by the complainant that the said Baljit Singh along with four unidentified persons deceived him into paying them a total of ₹90,00,000 (i.e. ₹10,00,000 through cheque withdrawn at HDFC Bank, Kurali and ₹80,00,000 in cash). Subsequently, when the complainant visited village Asgaripur, Tehsil Khanna, District Ludhiana to verify the ownership details of the property in question, he discovered that the actual owners of the said land are currently residing in Canada and that the accused persons had prepared forged documents to cheat him. Furthermore, the villagers informed the complainant that Avtar Singh, one of the actual owners had passed away in the year 1992 and the accused had prepared fake documents in his name. On these set of allegations, the instant FIR was registered and investigation ensued. During the course of investigation the name of the petitioners surfaced on the disclosure statement of co-accused Jagdish Kumar. He alleged that the persons who had impersonated the original owners were arranged by the petitioners.

3. Learned counsel for the petitioners has iterated that the petitioners have been falsely implicated into the FIR in question at the instance of co-accused Jagdish Kumar (who impersonated himself as Baljit Singh), whose disclosure statement is the only basis for naming the petitioners. Learned counsel has further iterated that the said disclosure is vague and devoid of any specific details and has been made with *mala fide* intention due to prior enmity between the petitioners and the said co-



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accused. Learned counsel has further submitted that the petitioners have earlier filed two police complaints against the said co-accused Jagdish Kumar before the SSP, Fatehgarh Sahib and even the maternal uncle of petitioner No.1 against the co-accused Jagdish Kumar for a similar act of cheating. Learned counsel has further submitted that neither the complainant has not named the petitioners in the FIR nor did he allege payment of any amount to them. Furthermore, the agreement to sell was executed only between the complainant and Baljit Singh (actual name Jagdish Kumar). According to learned counsel, the petitioners are not signatories to any document and have not received any consideration from the complainant. From the bare perusal of the present FIR, no offence is made out against the petitioners. A bare reading of the FIR discloses that no *prima facie* case is made out against the petitioners and their names have been roped in the FIR without any cogent basis. Learned counsel asserts that the custodial interrogation should not be used as a punitive measure and is justified only when absolutely necessary for the recovery of material evidence. Learned counsel asserts that the petitioners are ready to join the investigation and hence no useful purpose would be served by sending them behind the bars. On the basis of aforesaid submissions, the grant of instant petition is entreated for.

4. *Per contra*, learned State counsel has opposed the grant of anticipatory bail to the petitioners by arguing that the offence committed by them is serious in nature. Learned State counsel has iterated that the FIR was registered after due inquiry by the Police and the petitioners were found alongwith their accomplices have been found in the commission of the



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alleged offence of cheating, forgery and criminal conspiracy. Learned State counsel has iterated that the disclosure statement of co-accused Jagdish Kumar is not the sole basis for proceeding against the petitioners rather, the investigating agency has collected corroborative evidence such as photographs, video footage and statements of witnesses indicating the active presence and participation of the petitioners in the fraudulent transaction. Learned State counsel has further iterated that given the magnitude of the fraud, the economic nature of the offence and the ongoing investigation, custodial interrogation of the petitioners is necessary to ascertain the larger conspiracy and to trace the flow of cheated money. Accordingly, a prayer has been made for the dismissal of the instant petition in order to facilitate effective investigation into the alleged offence.

5. Learned counsel for the complainant has vociferously opposed the grant of anticipatory bail to the petitioners by raising submission in tandem with the learned State counsel.

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

7. It would be apposite to refer herein to a judgment of the Hon'ble Supreme Court titled as ***Kishor Vishwasrao Patil vs. Deepak Yashwant Patil and another*** passed in ***SLP(Crl) No.1125-2022***, relevant whereof reads as under:

“74. Ordinarily, arrest is a part of the process of the investigation intended to secure several purposes. There may be circumstances in which the accused may provide information leading to discovery of material facts and relevant information. Grant of anticipatory bail may hamper the investigation. Pre-arrest bail is to strike a balance between the individual's right to personal freedom and the right of the



investigating agency to interrogate the accused as to the material so far collected and to collect more information which may lead to recovery of relevant information.

xxx	xxx	xxx	xxx
xxx	xxx	xxx	xxx

75. Observing that the arrest is a part of the investigation intended to secure several purposes, in **Adri Dharan Das v. State of W.B. [Adri Dharan Das v. State of W.B., (2005) 4 SCC 303 : 2005 SCC (Cri) 933]** , it was held as under : (SCC p. 313, para 19)

“19. Ordinarily, arrest is a part of the process of investigation intended to secure several purposes. The accused may have to be questioned in detail regarding various facets of motive, preparation, commission and aftermath of the crime and the connection of other persons, if any, in the crime. There may be circumstances in which the accused may provide information leading to discovery of material facts. It may be necessary to curtail his freedom in order to enable the investigation to proceed without hindrance and to protect witnesses and persons connected with the victim of the crime, to prevent his disappearance, to maintain law and order in the locality. For these or other reasons, arrest may become an inevitable part of the process of investigation. The legality of the proposed arrest cannot be gone into in an application under Section 438 of the Code. The role of the investigator is well defined and the jurisdictional scope of interference by the court in the process of investigation is limited. The court ordinarily will not interfere with the investigation of a crime or with the arrest of the accused in a cognizable offence. An interim order restraining arrest, if passed while dealing with an application under Section 438 of the Code will amount to interference in the investigation, which cannot, at any rate, be done under Section 438 of the Code.”

76. In **Siddharam Satlingappa Mhetre v. State of Maharashtra [Siddharam Satlingappa Mhetre v. State of Maharashtra, (2011) 1 SCC 694 : (2011) 1 SCC (Cri) 514]**, the Supreme Court laid down the factors and parameters to be considered while dealing with anticipatory bail. It was held that the nature and the gravity of the accusation and the exact role of the accused must be properly comprehended before arrest is made and that the court must evaluate the available material against the accused very carefully. It was also held that the court should also



consider whether the accusations have been made only with the object of injuring or humiliating the applicant by arresting him or her.

77. After referring to **Siddharam Satlingappa Mhetre [Siddharam Satlingappa Mhetre v. State of Maharashtra, (2011) 1 SCC 694 : (2011) 1 SCC (Cri) 514]** and other judgments and observing that anticipatory bail can be granted only in exceptional circumstances, in **Jai Prakash Singh v. State of Bihar [Jai Prakash Singh v. State of Bihar, (2012) 4 SCC 379 : (2012) 2 SCC (Cri) 468]**, the Supreme Court held as under : (SCC p. 386, para 19)

*“19. Parameters for grant of anticipatory bail in a serious offence are required to be satisfied and further while granting such relief, the court must record the reasons therefor. Anticipatory bail can be granted only in exceptional circumstances where the court is prima facie of the view that the applicant has falsely been enroped in the crime and would not misuse his liberty. (See **D.K. Ganesh Babu v. P.T. Manokaran [D.K. Ganesh Babu v. P.T. Manokaran, (2007) 4 SCC 434 : (2007) 2 SCC (Cri) 345]**, **State of Maharashtra v. Mohd. Sajid Husain Mohd. S. Husain [State of Maharashtra v. Mohd. Sajid Husain Mohd. S. Husain, (2008) 1 SCC 213 : (2008) 1 SCC (Cri) 176]** and **Union of India v. Padam Narain Aggarwal [Union of India v. Padam Narain Aggarwal, (2008) 13 SCC 305 : (2009) 1 SCC (Cri) 1]**.)”*

Economic offences

78. Power under Section 438 CrPC being an extraordinary remedy, has to be exercised sparingly; more so, in cases of economic offences. Economic offences stand as a different class as they affect the economic fabric of the society. In **Directorate of Enforcement v. Ashok Kumar Jain [Directorate of Enforcement v. Ashok Kumar Jain, (1998) 2 SCC 105 : 1998 SCC (Cri) 510]**, it was held that in economic offences, the accused is not entitled to anticipatory bail.”

15. In **Sushila Agrawal and others v. State (NCT of Delhi) and Another reported in (2020) 5 SCC 1**, Constitution Bench of this Court held that while considering an application for grant of pre-arrest bail the Court has to consider the nature of the offence, the role of the person, the likelihood of his influencing the course of investigation, or tampering with evidence or likelihood of fleeing justice. The Court held:-

“92.4. Courts ought to be generally guided by considerations such as the nature and gravity of the offences, the role attributed to the applicant, and the facts of the case, while considering whether to grant anticipatory bail, or refuse it. Whether to grant or not is a



matter of discretion; equally whether and if so, what kind of special conditions are to be imposed (or not imposed) are dependent on facts of the case, and subject to the discretion of the court.”

8. As per the case put forth in the FIR in question, indubitably, serious allegations have been levelled against the petitioners. From the perusal of the FIR and the material available on record, it is evident that the complainant was induced to enter into an agreement to sell in respect of land situated at Village Asgaripur, Tehsil Khanna, District Ludhiana and that a sum of Rs.90,00,000/- was paid by him to the accused persons out of which Rs.10,00,000/- was withdrawn through bank transaction and Rs.80,00,000/- was allegedly paid in cash. The allegations in the FIR and the material collected during the course of investigation *prima facie* disclose a serious offence of cheating, forgery and criminal conspiracy in which the role of the present petitioners is under investigation. The names of the petitioners' have surfaced during the course of investigation and are supported by the disclosure statement and other circumstantial evidence collected so far. The plea of false implication on account of prior enmity or previous complaints against the co-accused cannot be accepted at this stage as such issues are matters of evidence and the same are to be established during the course of trial. The economic offence involves a large sum of public money and affects the faith of society in land transactions. Furthermore, economic offences are committed with deep-rooted conspiracies and involve deliberate design and, therefore, require thorough investigation. In the considered opinion of this Court, granting anticipatory bail to the petitioners, at this stage, would hamper the ongoing investigation and



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impede the recovery of material evidence. The stand of the investigating agency before this Court is that the custodial interrogation of the petitioners is necessary for the purpose of uncovering the larger conspiracy, identifying other co-accused and tracing the flow of cheated funds. At the stage of considering the plea for anticipatory bail, the Court is not to evaluate the evidence but only to see whether *prima facie* allegations disclose a serious offence. In the considered opinion of this Court, granting anticipatory bail at this stage may likely hamper the ongoing investigation.

9. It is well settled that the anticipatory bail is an extraordinary remedy and is to be granted only in exceptional circumstances where the Court is satisfied that the petitioners have been falsely implicated and that custodial interrogation is not required. Furthermore, the fraudulent activities have caused severe financial and emotional distress to the complainant. Therefore, individuals involved in such organized deceit must be dealt firmly and in accordance with the law, leaving no room for leniency. Considering the possibility of involvement of multiple persons and to establish the broader conspiracy, if any, behind the occurrence coupled with the role of the petitioners, it is not appropriate to grant bail to the petitioners at this nascent stage. No cause *nay* plausible cause has been shown, at this stage, from which it can be deciphered that the petitioners have been falsely implicated into the present FIR.

10. It is befitting to mention here that while considering a plea for grant of anticipatory bail, the Court has to equilibrate between safeguarding individual rights and protecting societal interests. The Court ought to reckon with the magnitude and nature of the offence; the role attributed to the



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accused; the need for fair and free investigation as also the deeper and wide impact of such alleged iniquities on the society. At this stage, there is no material on record to hold that *prima facie* case is not made out against the petitioners. The material which has come on record and preliminary investigation, appear to establish a reasonable basis for the accusations. Thus, it is not appropriate to grant anticipatory bail to the petitioners, as it would necessarily cause impediment in effective investigation. In ***State v. Anil Sharma, (1997) 7 SCC 187 : 1997 SCC (Cri) 1039***, the Hon'ble Supreme Court held as under : (SCC p. 189, para 6)

“6. We find force in the submission of CBI that custodial interrogation is qualitatively more elicitation-oriented than questioning a suspect who is well-ensconced with a favourable order under Section 438 of the Code. In a case like this, effective interrogation of a suspected person is of tremendous advantage in disinterring many useful informations and also materials which would have been concealed. Success in such interrogation would elude if the suspected person knows that he is well protected and insulated by a pre-arrest bail order during the time he is interrogated. Very often interrogation in such a condition would reduce to a mere ritual. The argument that the custodial interrogation is fraught with the danger of the person being subjected to third-degree methods need not be countenanced, for, such an argument can be advanced by all accused in all criminal cases. The Court has to presume that responsible police officers would conduct themselves in task of disinterring offences would not conduct themselves as offenders.”

11. In view of the gravity of the allegations, the specific role attributed to the petitioners and the necessity of custodial interrogation for a fair and thorough investigation, this Court is of the considered opinion that the petitioners do not deserve the concession of anticipatory bail in the factual *milieu* of the case in hand.

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



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- (i) The instant petition is devoid of merits and is hereby dismissed.
- (ii) Nothing said hereinabove shall be deemed to be an expression of opinion upon merits of the case/investigation.
- (iii) Pending application(s), if any, shall also stand disposed off.

(SUMEET GOEL)
JUDGE

November 10, 2025

Ajay

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

