



CRM-M-7841-2025

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IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M-7841-2025

Mukesh Kumar

....Petitioner

V/s

State of Haryana and others

....Respondents

Date of decision: 03.09.2026

Date of Uploading : 07.09.2026

CORAM: HON'BLE MR. JUSTICE SUMEET GOEL

Present: Mr. S.K. Garg Narwana, Senior Advocate with
Mr. Vishal Garg Narwana, Advocate
Mr. Nitin Sachdeva, Advocate
Mr. Shubham Goyal, Advocate
Ms. Sukriti Jain, Advocate and
Mr. R.S. Duggal, Advocate for the petitioner.

Mr. Gurmeet Singh, AAG Haryana for the respondent-State.

SUMEET GOEL, J.

1. The *petition in hand* has been filed under Section 528 of the Bharatiya Nagarik Suraksha Sanhita, 2023 (hereinafter referred to as BNSS) (erstwhile Section 482 of the Criminal Procedure Code, 1973), with the following substantive prayer:

“It is, therefore, most respectfully prayed that preset petition may kindly be allowed and the FIRs i.e. FIR no. 43 Dated 28.11.2022 (Annexure P-23), lodged by Anti Corruption Burea, Gurugram (ACB) Haryana under Section 409, 418, 420, 467, 468, 120-B of IPC, and 13(2), 13(1)(c) & 13(1)(d) of Prevention of Corruption Act, Police Station : ACB, Sector 47, Gurugram, Haryana and FIR no.11 Dated 05.03.2023 (Annexure P-24) lodged by Anti Corruption Bureau, Gurugram (ACB) Haryana under Section 409, 418, 420, 467, 468, 120-B IPC and 13(2), 13(1)(c) & 7(c) of Prevention of Corruption Act, Police Station :ACB, Sector 47, Gurugram, Haryana and all the subsequent proceedings arising out of the same, being perverse, illegal, mala fide and the continuation of proceedings therein amounting to an abuse of process of law, in the interest of justice.



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And

Further for quashing/setting aside letter/order dated 10.11.2022 (Annexure P-22) whereby sanction/permission under Section 17-A of Prevention of Corruption Act, 2019 has been granted by the Department after a lapse of 3 years and that too not by the competent authority i.e. appointing authority, in the interest of justice.

And

Further for directing the respondent no. 1, 5 & 6 for taking action against Sh. R.S. Verma, Sh. Shiv Pansad, the then Administrator, Head Quarter (now retired) and others officials/officers, on the basis of inquiry report dated 03.10.2022 (Annexure P-21), in the interest of justice.

And

Further for directing the respondent no. 1 & 2 to conduct probe regarding the role of Sh. Subhash Yadav, the then I.G. SVB (now retired), the then Administrator, Gurugram and Sh. Bharat Bhushan Gogia, Estate Officer, Gurugram and other officers/officials of Haryana Shehari Vikas Pradhikaran and SVB at Gurugram & Panchkula involved in the matter, in view of the facts and circumstances of the present case, in the interest of justice.

And

Further for directing the respondent no. 1 to get the inquiry of the present matter conducted from any senior police officer not below the rank of ADGP outside the State of Haryana or any other independent agency, as various HCS/IAS/IPS officers are involved in the present case i.e. Sh. Subhash Yadav, the then I.G. SVB (now retired)/respondent no. 7, Sh. R.S. Verma/respondent no. 8, Sh. Shiv Parsad/respondent no. 9, the then Administrator, Head Quarter (now retired), the then Administrator, Gurugram and Sh. Bharat Bhushan Gogia, the then Estate Officer-I & II, Gurugram/respondent no. 10 and other officers/officials of HSVP and SVB at Gurugram & Panchkula, in the interest of justice.

And

For staying all the proceedings initiated from the impugned FIRs i.e. FIR No. 43 Dated 28.11.2022 (Annexure P-23) and FIR No. 11 Dated 05.03.2023 (Annexure P-24), till the decision of the present petition, as in CWP No. 29230 of 2022 filed by Bharat Bhushan Taneja, vide order dated 17.01.2023 (Annexure P-27A) coercive steps have been stayed, whereas the petitioner has only complied with the orders/directions Dated 15.06.2018 (Annexure P-4) forwarded/signed by Bharat Bhushan Taneja and email dated 27.07.2018 (Annexure P-8) sent by Shiv Prasad,



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Administrator (Headquarter), HSVP from his official email, in the interest of justice.

And/or

For the issuance of any other order or direction which this Hon'ble Court may deem fit and proper in the facts and circumstances of the case; and for grant of such relief to which the petitioner may be found entitled in the facts and circumstances of the case.

It is further prayed that the petitioner may kindly be exempted from filing the certified/true typed copies of Annexure P-1 to P-50 and the same may kindly be allowed to be placed on record, in the interest of justice."

2. The relevant factual backdrop of the *lis* in hand is adumbrated thus:

(i) The petitioner, at the relevant time, was serving as an Estate Officer-I, HSVP, Gurugram. The genesis of the matter relates to three SCO sites, i.e. SCO Nos. 8 and 30, Sector 23-A, Gurugram and SCO No.13, Sector 23-A, Gurugram. The said properties had originally been auctioned in the year 1997 and allotment letters were issued on 18.12.1997. The allotments were subsequently cancelled on 10.04.1998. The appeals, revisions and review proceedings arising therefrom preferred by the concerned allottees were also dismissed in the years 1999, 2000 and 2001 respectively.

(ii) In the year 2018, application(s) were moved by the concerned firm(s) seeking restoration of the aforesaid SCOs. The petitioner, who was then holding the charge of Estate Officer-I, Gurugram, received directions from the higher authorities to verify the factual position regarding non-delivery of the original allotment letters and to take necessary action. On verification of the official record, the petitioner had found that the original allotment letters issued in the year 1997 had remained undelivered and had

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been returned by the postal authorities. Pursuant thereto, the petitioner issued copies/provisional conditional allotment letter(s), specifically making the same subject to final approval of the Chief Administrator, HSVP, Panchkula. Furthermore, the petitioner had also submitted the compliance reports in this regard to the higher authorities.

(iii) The aforesaid conditional allotments, however, were subsequently cancelled/withdrawn. In respect of SCO Nos.8 and 30, the conditional allotment was cancelled on 30.08.2018 whereas in respect of SCO No.13, the petitioner withdrew the conditional allotment on 04.09.2018. The petitioner had claimed that he had acted pursuant to the directions received from his superior officers and that the proposed allotments were never given finality by the competent authority.

(iv) Thereafter, Vigilance Inquiry was conducted and the final inquiry report dated 03.10.2022, as relied upon by the petitioner, recorded findings in his favour wherein it has been stated that no financial loss had occurred to the Government on account of issuance of the conditional allotments. The petitioner has also relied upon the order/communication dated 10.11.2022 regarding approval under Section 17-A of the Prevention of Corruption Act.

(v) Notwithstanding the aforesaid circumstances, the FIR No.43 dated 28.11.2022 had been registered in respect of SCO Nos.8 and 30 and FIR No.11 dated 05.03.2023 had been registered in respect of SCO No.13. The prosecution case, in substance, is that the petitioner, while functioning as Estate Officer-I, Gurugram, in connivance with other officials and the concerned private parties, proceeded to restore/re-allot the SCOs after a

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considerable lapse of time at the old rates and thereby allegedly caused undue benefit to the private parties and consequential wrongful loss to the HSVP. The allegations further disclosed that the petitioner had acted without obtaining the requisite approval from the competent authority & had played an active role in the re-allotment of the properties in question. The inquiry report dated 27.12.2019 sent by Director General, State Vigilance Bureau as also letter dated 10.11.2022 whereby permission under Section 17-A of Prevention of Corruption Act was granted by the Department had also been challenged by the petitioner before this Court vide CWP-27412-2022.

(vi) In relation to the aforesaid FIRs, the petitioner had earlier approached this Court seeking the concession of anticipatory bail(s) whereby interim protection had been afforded to him on 07.06.2023. Pursuant thereto, the petitioner had joined the investigation and also furnished the requisite affidavit regarding his assets. However, both the anticipatory-bail petition(s) were ultimately dismissed by this Court vide common order dated 20.03.2024. The petitioner approached the Hon'ble Supreme Court vide SLP(Crl.) No.4962-4963/2024, against the above-said dismissal of his plea (for anticipatory bail) by this Court. Vide order dated 16.04.2024, the said SLP was declined by the Hon'ble Supreme Court.

(vii) Thereafter, the petitioner had also earlier approached this Court by way of CRM-M-2757-2023 (Annexure P-26) seeking quashing of FIR No.43 dated 28.11.2022. However, the said petition was withdrawn on 18.01.2023 with liberty to the petitioner to apprise the investigating agency



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of the issues raised therein and to take all such points before the trial Court at the appropriate stage, in case a challan was presented.

However, by way of petition in hand, the petitioner has chosen to seek quashing of the impugned FIRs (as also proceedings arising therefrom) itself.

3. At the very outset, this Court called upon the learned counsel appearing for the rival parties to address the preliminary question of maintainability of the *petition in hand*, particularly in view of the petitioner's earlier plea(s) for Anticipatory bail having been dismissed (on merits) by this Court, which order has attained finality upon dismissal of the plea for anticipatory bail subsequently by the Hon'ble Supreme Court. Admittedly, in the *interregnum*, the petitioner has not surrendered much less availed the remedy of regular bail from the competent court. The pertinent preliminary question, therefore, is whether the petitioner, without submitting himself to the process of law, can maintain the *petition in hand* espousing the plea for quashing of the FIR(s) in question (on merits) after failing in his earlier attempt(s) to secure anticipatory bail.

3.1. Learned counsel appearing for the petitioner; led by Sh. S.K. Garg Narwana, Senior Advocate; while addressing the issue of maintainability, has submitted that the mere dismissal of an earlier petition seeking anticipatory bail, cannot, *ipso facto*, operate as a bar to the present petition seeking quashing of FIR. It is contended that the two proceedings operate in distinct and independent fields and are governed by materially different considerations. It is further iterated that dismissal of prayer for anticipatory bail, even on merits, does not amount to an adjudication upon



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the legality or sustainability of the FIR, nor does it constitute a finding that the prosecution must necessarily proceed.

Learned Senior counsel has further urged that there is no legal principle of merger or estoppel whereby an unsuccessful plea for anticipatory bail forecloses an otherwise maintainable challenge to the FIR by way of a quashing petition. It is further submitted that the cause of action, relief sought and jurisdiction invoked in the two proceedings being distinct, the dismissal of one cannot, by necessary implication, entail the dismissal of other.

Lastly, the learned senior counsel has argued that the jurisdiction to quash an FIR is neither a substitute for, nor an extension of, the jurisdiction exercised while considering a plea for anticipatory bail. The earlier order(s) declining anticipatory bail may be relevant for court's consideration, but it *ipso facto*, cannot foreclose an independent examination of the FIR on the parameters applicable to a petition seeking quashing of FIR.

On the strength of afore-said submissions, the learned senior counsel has canvassed that the *petition in hand* is maintainable and hence he may be allowed to plead the case on merits thereof.

4. In *oppugnation*, learned State counsel has assailed the very maintainability of the *petition in hand*. It is submitted that the petitioner, having approached this Court for discretionary relief of anticipatory bail and having failed therein (as also before the Hon'ble Supreme Court), cannot, without surrendering to the jurisdiction of the competent court/ police, seek to circumvent the consequence of such dismissal by invoking the



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extraordinary jurisdiction of this Court for quashing of FIR(s). It is further contended that a plea for anticipatory bail in itself is a limited and lesser relief, whereas a plea for quashing of FIR is a much wider and more consequential relief, and having failed to secure even the lesser discretionary protection against arrest, the petitioner cannot be permitted to seek substantially greater relief of obliterating the very prosecution, without showing any material change in circumstance (since dismissal of the anticipatory bail petition) in the factual conspectus of the case at hand. It has been submitted that the petitioner; having deliberately refrained from submitting himself to the jurisdiction of the competent court, having neither surrendered nor sought regular bail, is disentitled from invoking the discretionary and equitable jurisdiction of this Court. It is, thus, contended that permitting the petitioner to maintain the present petition in the circumstances as noticed hereinabove, would amount to permitting him to circumvent the earlier order(s) which he has already to obtain.

On these grounds, dismissal of the *petition in hand* is entreated for.

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

6. Before proceedings further with the matter, it would be apposite to refer herein to a judgment passed by this Court in **CRM-M-12541-2026** titled as ***Kuldeep Singh vs. State of Punjab and others*** = **2026:PHHC:069608**, the relevant whereof reads as under:

“Prime Issue



5. *The prime issue that arises for consideration is as to whether the petition in hand ought to be granted and the impugned FIR (as also proceedings arising therefrom) ought to be quashed.*

The seminal legal issue that arises for cogitation is as to whether the petition under Section 528 of the BNSS (erstwhile Section 482 of Cr. P.C.) ought to be entertained following the dismissal of a petition for anticipatory bail; the petitioner having remained at large, during the interregnum, and has failed to surrender to the jurisdiction of law.

Analysis

6. *Undoubtedly, while the statutory parameters governing the grant of Anticipatory Bail under Section 482 BNSS, 2023 (erstwhile Section 438 Cr.P.C., 1973) and the inherent powers of this Court under Section 528 BNSS, 2023 (erstwhile Section 482 Cr.P.C.) operate within distinct legal domains, they are not entirely sequestered from the factual substratum of a case.*

*Where a plea for Anticipatory Bail has been deliberated upon and rejected on merits (and more so, when that rejection has attained finality through subsequent dismissal of appeal, whereby it was impugned) there arises a formidable judicial finding regarding the existence of a prima facie case. By declining the prayer for grant of Anticipatory Bail, the Court provides a judicial imprimatur to the ongoing investigation, signaling that the allegations are of such gravity or substantiated nature that they warrant, or at least permit custodial interrogation. Ergo, thereafter, the investigation is not rendered a mere administrative exercise but a process stamped with judicial legitimacy. To leap from the dismissal of Anticipatory Bail directly to a petition for quashing of FIR, without any material change in circumstances, warranting an interference, is to fundamentally ignore this prima facie validity. It is a cardinal principle of legal logic, encapsulated in the maxim *in toto et pars continetur* i.e., the part is contained in the whole, that a litigant cannot seek a superior remedy when the threshold for a subordinate relief has not been met. It is an inherent legal paradox to suggest that this Court, having found the petitioner's case insufficient to warrant the "lesser" relief of protection from arrest, would, on the same factual matrix, grant the "larger" relief of absolute exoneration via quashing. To entertain such a plea would be to turn the legal hierarchy on its head. Seeking the quashing of FIR, immediately following the failure of an Anticipatory Bail petition, in the absence of any material change in*



circumstances, is a futile pursuit of an outcome that even the logic does not support. This attempt to secure a second bite at the apple, is an inherently absurd legal endeavour. Such a manoeuvre is not merely a misuse of the process of law; it is rather an affront to the principles of judicial finality, as it compels the court to re-deliberate a position already settled during earlier proceedings. By adopting such a course, the petitioner herein engages in a form of procedural artifice that is antithetical to the bona fides required of a litigant invoking the extraordinary jurisdiction of this Court.

Consequently, such petition born out of a desire to circumvent the statutory machinery, must be viewed as an attempt to frustrate the administration of justice and cannot be countenanced by this Court.

6.1. *This Court must hasten to add a necessary caveat to the aforementioned observations to maintain the fine balance of procedural equity.*

While it is forth coming from above discussion that a petition for quashing of FIR is not entertainable, immediately, following the dismissal of an anticipatory bail plea, absent a radical metamorphosis in the factual circumstances; however, the converse of this proposition does not hold true. The dismissal of a petition for quashing the FIR does not, ipso facto, operate as a jurisdictional bar to the entertainment of an application for anticipatory bail. Since the quashing of an FIR is the ultimate and most larger relief, effectively terminating the prosecution in its infancy, its denial merely signifies that there is sufficient material to proceed with an investigation. It does not, by necessary implication, mean that the smaller and more transitory relief of protection from arrest is unwarranted, as the criteria for evaluating the necessity of custodial interrogation differ fundamentally from the high threshold required to terminate a criminal proceeding altogether. Furthermore, the dismissal of a quashing petition under Section 528 BNSS is often based on the principle that the Court will not conduct a mini-trial at the threshold; yet, the liberty of the individual remains a sacrosanct constitutional value under Article 21. Therefore, even if the Court declines to quash an investigation, the door to anticipatory bail remains ajar, as the accused may still demonstrate that his arrest is not a requisite for the effective administration of justice. To hold otherwise would be to create a legal cul-de-sac, unfairly penalizing a litigant for invoking a higher remedy.



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7. Reverting to the facts of the *petition in hand*, it remains an undisputed position before this Court that the prayer of the petitioner seeking grant of anticipatory bail stood declined by this Court, *vide* Order dated 20.03.2024. The challenge carried thereagainst by way of SLP before the Hon'ble Supreme Court also did not find favour with the Hon'ble Supreme Court, which came to be dismissed *vide* order dated 16.04.2024. The judicial *imprimatur* thus accorded to the rejection of anticipatory bail by the High Court (and subsequently upholding of dismissal by the Hon'ble Supreme Court) lends finality, at least for the *nonce*, to the assessment of the entitlement of the petitioner to discretionary relief. The distinction sought to be drawn by the learned Senior counsel between the two proceedings cannot, however, be viewed in isolation from the conduct of the petitioner. The petitioner cannot be permitted to keep the criminal process in suspended animation by successively invoking a wider jurisdiction under a differently couched prayer.

It is an admitted and rather telling circumstance that, subsequent to the aforesaid dismissals, the petitioner has neither chosen to surrender before the competent court nor made himself available for the purposes of investigation. Such recalcitrant conduct, bordering on deliberate evasion of the due process of law, disentitles the petitioner from invoking the extraordinary and equitable jurisdiction of this Court. The approach adopted by the petitioner appears to be nothing short of a hit and try stratagem. It is more in the nature of an attempt to circumvent the consequences of earlier adverse judicial orders by re-agitating substantially the same cause under the veneer of a different relief. *Ergo*, the issue is not



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merely of nomenclature or the form in which relief is sought, as the extraordinary jurisdiction of the Court cannot be invoked as a means of circumventing the consequences flowing from an earlier judicial determination.

7.1. It is trite that while declining anticipatory bail, the Court ordinarily does not, and indeed cannot, mandate the surrender of the accused before the investigating agency. However, this procedural limitation cannot be misconstrued as a license to the petitioner to remain in abscondence and, simultaneously, seek indulgence of the Court in collateral proceedings. The maxim *'he who seeks equity must do equity'*, a litigant who stands in defiance of the law cannot be permitted to seek its protection, squarely applies. The petitioner, having failed to secure the concession of anticipatory bail both before this Court and the Hon'ble Supreme Court, cannot be permitted to achieve indirectly what he could not secure directly. Permitting such a course would not only erode the sanctity of judicial proceedings but would also encourage litigants to indulge in speculative and successive litigation, thereby undermining the administration of criminal justice. The change in the complexion of the relief cannot, by itself, confer a fresh entitlement to invoke the extraordinary jurisdiction of this Court. Moreover, the relief of quashing of FIR, being extraordinary in nature, is to be exercised sparingly and with circumspection, and only in cases where the allegations, even if taken at their face value, fail to disclose the commission of any cognizable offence or where the continuation of proceedings would amount to palpable abuse of process. A person who has consciously chosen to evade investigation cannot, in the same breath, seek adjudication on



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merits of the very proceedings he seeks to thwart. Viewed thus, when both this Court as also the Hon'ble Supreme Court have, upon consideration, declined to extend the protective umbrella of anticipatory bail to the petitioner, it would be wholly incongruous and bereft of sound judicial reasoning to entertain, much less allow, a prayer for quashing of FIR.

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

(i) The *petition in hand*, being not entertainable at this juncture, is accordingly dismissed for the *nonce* while reserving liberty in favour of the petitioner to approach this Court again, in case the cause of action so ensues, after submitting himself to the jurisdiction of the process of law.

(ii) Any observations made and/ or submissions noted hereinabove shall not have any effect on the merits of the case and the Sate/concerned Court shall proceed further, in accordance with law, without being influenced with them.

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

(SUMEET GOEL)
JUDGE

September 03, 2026
Ajay/mahavir

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