

IN THE HIGH COURT OF HIMACHAL PRADESH, SHIMLA**Cr. MP(M) No. 2673 of 2025****Reserved on: 21.11.2025****Date of Decision: 26.11.2025.**

Yadwinder Singh Minhas	...Petitioner
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Versus

State of Himachal Pradesh	...Respondent
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*Coram**Hon'ble Mr Justice Rakesh Kainthla, Judge.**Whether approved for reporting?¹ No.*

For the Petitioner	:	Mr. Servedaman Rathore, Advocate.
For Respondent No.1	:	Mr Lokender Kutlehria, Additional Advocate General with HC Narjeet Mankotia, No.6 P.S., Sansarpur, Terrace P.S.Dehra, H.P.

Rakesh Kainthla, Judge

The petitioner has filed the present petition for seeking pre-arrest bail in FIR No. 28 of 2025, dated 08.09.2025, registered for the commission of offences punishable under Section 303 (2) of Bhartiya Nyaya Sanhita (BNS) and Sections 41 & 42 of the Indian Forest Act at Police Station Sansarpur Terrace, District Kangra, H.P.

¹ Whether reporters of Local Papers may be allowed to see the judgment? Yes.

2. It has been asserted that, as per the prosecution, the informant detected the illicit felling of 14 green Khair trees in the forest of Kotla beat UPF Jakhuni (W). These trees were cut by some unknown persons on the night of 23.08.2025. Logs of 9 Khair trees were taken, and logs of 5 Khair trees were left in the forest. The police registered the F.I.R. and investigated the matter. The petitioner is being falsely implicated in the aforesaid F.I.R. The story of the prosecution is highly suspicious, and there is no material to connect the petitioner to the commission of the crime. The petitioner is ready and willing to abide by all the terms and conditions which the Court may impose. Hence the petition.

3. The State has filed a status report asserting that the informant made a complaint that 14 Khair trees of different categories were cut in Kotla Beat UPF Jakhuni (W) on the night of 23.08.2025. 9 logs were taken, whereas 5 were kept in the forest. The police checked the CCTV footage and found that Bolero Neo and Tempo 407 went towards the spot and left after some time. Call details were also checked, and the involvement of Anil Kumar and Balwinder Singh was found. The police apprehended Balwinder Singh, who revealed that he, Ajay, Gurpreet Singh

alias Gopi, Om Parkash @ Dana Gaddi and Driver Rohtu had cut the trees. The accused revealed during the investigation that logs were sold to the petitioner, Yadwinder Singh. The call detail record was obtained, and it was found that Om Parkash was in touch with the petitioner. The petitioner joined the investigation, but he denied his involvement. He has also not produced the stolen logs. Hence, it was prayed that the present petition be dismissed.

4. I have heard Mr. Servedaman Rathore, learned counsel for the petitioner and Mr. Lokender Kutlehria, learned Additional Advocate General, for the respondent/State.

5. Mr Servedaman Rathore, learned counsel for the petitioner, submitted that the petitioner is innocent and he was falsely implicated. The police are compelling the petitioner to confess to the commission of crime, which is impermissible. There is no material to connect the petitioner to the commission of crime. Therefore, he prayed that the present petition be allowed and the petitioner be released on bail.

6. Mr Lokender Kutlehira, learned Additional Advocate General, for the respondent/State, submitted that the petitioner

was named by the co-accused and his custodial interrogation is necessary to recover the stolen logs. Therefore, he prayed that the present petition be dismissed.

7. I have given considerable thought to the submissions made at the bar and have gone through the records carefully.

8. It was laid down by the Hon'ble Supreme Court in *P. Chidambaram v. Directorate of Enforcement*, (2019) 9 SCC 24; (2019) 3 SCC (Cri) 509; 2019 SCC OnLine SC 1143 that the power of pre-arrest bail is extraordinary and should be exercised sparingly. It was observed:

“69. Ordinarily, an arrest is a part of the procedure of the investigation to secure not only the presence of the accused but also several other purposes. Power under Section 438 Cr.P.C. is an extraordinary power, and the same has to be exercised sparingly. The privilege of pre-arrest bail should be granted only in exceptional cases. The judicial discretion conferred upon the court has to be properly exercised after application of mind as to the nature and gravity of the accusation; the possibility of the applicant fleeing justice, and other factors, to decide whether it is a fit case for the grant of anticipatory bail. Grant of anticipatory bail to some extent interferes with the sphere of investigation of an offence, and hence, the court must be circumspect while exercising such power for the grant of anticipatory bail. Anticipatory bail is not to be granted as a matter of rule, and it has to be granted only when the court is convinced that exceptional circumstances exist to resort to that extraordinary remedy.”

9. This position was reiterated in *Srikant Upadhyay v. State of Bihar, 2024 SCC OnLine SC 282*, wherein it was held:

“25. We have already held that the power to grant anticipatory bail is extraordinary. Though in many cases it was held that bail is said to be a rule, it cannot, by any stretch of the imagination, be said that anticipatory bail is the rule. It cannot be the rule, and the question of its grant should be left to the cautious and judicious discretion of the Court, depending on the facts and circumstances of each case. While called upon to exercise the said power, the Court concerned has to be very cautious, as the grant of interim protection or protection to the accused in serious cases may lead to a miscarriage of justice and may hamper the investigation to a great extent, as it may sometimes lead to tampering or distraction of the evidence. We shall not be understood to have held that the Court shall not pass interim protection pending consideration of such application as the Section is destined to safeguard the freedom of an individual against unwarranted arrest, and we say that such orders shall be passed in eminently fit cases.”

10. It was held in *Pratibha Manchanda v. State of Haryana, (2023) 8 SCC 181; 2023 SCC OnLine SC 785* that the Courts should balance individual rights, public interest and fair investigation while considering an application for pre-arrest bail. It was observed:

“21. The relief of anticipatory bail is aimed at safeguarding individual rights. While it serves as a crucial tool to prevent the misuse of the power of arrest and protects innocent individuals from harassment, it also presents challenges in maintaining a delicate balance between individual rights and the interests of justice. The tightrope we must walk

lies in striking a balance between safeguarding individual rights and protecting public interest. While the right to liberty and presumption of innocence are vital, the court must also consider the gravity of the offence, the impact on society, and the need for a fair and free investigation. The court's discretion in weighing these interests in the facts and circumstances of each case becomes crucial to ensure a just outcome.”

11. It was held in *Devinder Kumar Bansal v. State of Punjab*, (2025) 4 SCC 493: 2025 SCC OnLine SC 488 that pre-arrest bail can be granted in exceptional circumstances where the Court is of the view that the petitioner was falsely implicated in the case, and the presumption of innocence cannot be a reason to grant bail. It was observed at page 501:

“21. The parameters for the grant of anticipatory bail in a serious offence like corruption are required to be satisfied. Anticipatory bail can be granted only in exceptional circumstances where the court is prima facie of the view that the applicant has been falsely implicated in the crime or the allegations are politically motivated or are frivolous. So far as the case at hand is concerned, it cannot be said that any exceptional circumstances have been made out by the petitioner-accused for the grant of anticipatory bail, and there is no frivolity in the prosecution.

22. In the aforesaid context, we may refer to a pronouncement in *CBI v. V. Vijay Sai Reddy* [*CBI v. V. Vijay Sai Reddy*, (2013) 7 SCC 452: (2013) 3 SCC (Cri) 563], wherein this Court expressed thus: (SCC p. 465, para 34)

“34. While granting bail, the court has to keep in mind the nature of accusation, the nature of evidence in support thereof, the severity of the punishment which conviction will entail, the character of the accused,

circumstances which are peculiar to the accused, reasonable possibility of securing the presence of the accused at the trial, reasonable apprehension of the witnesses being tampered with, the larger interests of the public/State and other similar considerations. It has also to be kept in mind that for the purpose of granting bail, the legislature has used the words “reasonable grounds for believing” instead of “the evidence” which means the court dealing with the grant of bail can only satisfy itself as to whether there is a genuine case against the accused and that the prosecution will be able to produce prima facie evidence in support of the charge. It is not expected, at this stage, to have the evidence establishing the guilt of the accused beyond a reasonable doubt.” (emphasis in original and supplied)

23. The presumption of innocence, by itself, cannot be the sole consideration for the grant of anticipatory bail. The presumption of innocence is one of the considerations which the court should keep in mind while considering the plea for anticipatory bail. The salutary rule is to balance the cause of the accused and the cause of public justice. Over-solicitous homage to the accused's liberty can, sometimes, defeat the cause of public justice.

12. The present petition is to be decided as per the parameters laid down by the Hon’ble Supreme Court.

13. The status report mentions that the petitioner cooperated with the investigation, but he did not confess to his involvement. He did not produce the stolen logs; therefore, his custodial interrogation is necessary. It was laid down by the Hon’ble Supreme Court in *Tusharbhai Rajnikantbhai Shah v.*

Kamal Dayani, (2025) 1 SCC 753, that the accused refusing to confess to the crime does not amount to non-cooperation and any confession made by the accused is inadmissible in evidence. It was observed:-

“43. We are of the firm opinion that non-cooperation by the accused is one matter, and the accused refusing to confess to the crime is another. There would be no obligation upon the accused that, on being interrogated, he must confess to the crime and only thereafter would the investigating officer be satisfied that the accused has cooperated with the investigation. As a matter of fact, any confession made by the accused before a police officer is inadmissible in evidence and cannot even form a part of the record.

44. This Court vide order dated 12-7-2024 passed in *Sanuj Bansal v. State of U.P. [Sanuj Bansal v. State of U.P., 2024 SCC OnLine SC 2335]* has held that such confessions recorded in the interrogation notes of the accused cannot form part of the charge-sheet.”

14. It was held in *Hemant Kumar vs State of Haryana SLp (Crl) no. 232 of 2024, decided on 06.03.2024*, that failure to recover the money taken as a bribe does not amount to non-cooperation.

It was observed:

“On going through the materials disclosed, we are of the opinion that custodial interrogation of the appellant is not necessary for the purpose of the ongoing investigation. There is no aggravating factor that would justify the detention of the appellant at the investigation stage. On behalf of the State, it was sought to be argued that the appellant was not cooperating with the investigation. But

in response to our query about the nature of such non-cooperation, it was submitted on behalf of the State that the appellant, as an accused, was not helping out for the recovery of the sum allegedly paid to him as a bribe. In our opinion, however, participation in the investigation does not entail making self-incriminating statements, which seems to be the reason for which the State wants him in custody.”

15. It was held in *Bijender vs State of Haryana SLP (Crl) no. 1079 of 2024, decided on 06.03.2024*, that a person is not expected to make a self-incriminatory statement under the threat that the State shall withdraw the interim protection granted to him. It was observed:

“An accused, while joining investigation as a condition for remaining enlarged on bail, is not expected to make self-incriminating statements under the threat that the State shall seek withdrawal of such interim protection.”

16. The petitioner has a right of silence under Article 20 of the Constitution of India and cannot be compelled to be a witness against himself. It was held by the European Commission of Human Rights in *John Murray vs. United Kingdom [1996] ECHR 3* that the right to silence and the right against self-incrimination form the core of the fair procedure. It was observed:

“Although not specifically mentioned in Article 6 (art. 6) of the Convention, there can be no doubt that the right to remain silent under police questioning and the privilege against self-incrimination are generally recognised international standards which lie at the heart of the notion

of a fair procedure under Article 6 (art. 6) (see the Funke judgment cited above, loc. cit.). By providing the accused with protection against improper compulsion by the authorities, these immunities contribute to avoiding miscarriages of justice and to securing the aims of Article 6 (art. 6).”

17. Therefore, the police custody cannot be authorised to compel the petitioner to be a witness against himself.

18. The status report does not mention that any money stated to have been paid by the accused was recovered from the co-accused. The petitioner was also not found to be in touch with the co-accused apprehended by the police, but with Om Parkash, who has absconded. Therefore, the material on record is insufficient to detain the petitioner in custody.

19. In view of the above, the present petition is allowed and the order dated 11.11.2025 is made absolute subject to the following conditions:-

- (i) *The petitioner will join the investigation as and when directed to do so;*
- (ii) *The petitioner will not intimidate the witnesses, nor will he influence any evidence in any manner whatsoever;*
- (iii) *The petitioner shall attend the trial on each and every hearing and will not seek unnecessary adjournments in case of the presentation of the charge-sheet.*
- (iv) *The petitioner will not leave the present address for a continuous period of seven days without furnishing the address of the intended visit to the SHO concerned, the Police Station concerned and the Trial Court;*

- (V) *The petitioner will surrender his passport, if any, to the Court; and*
- (Vi) *The petitioner will furnish his mobile number and social media contact to the Police and the Court and will abide by the summons/notices received from the Police/Court through SMS/WhatsApp/Social Media Account. In case of any change in the mobile number or social media accounts, the same will be intimated to the Police/Court within five days from the date of the change.*

20. The observations made heretofore shall remain confined to the disposal of the petition and will have no bearing, whatsoever, on the merits of the case.

(Rakesh Kainthla)
Judge

26th November 2025
(ravinder)