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

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Upkar @ Upkar Singh

....Petitioner

V/s

State of Haryana

....Respondent

**Date of decision: 23.04.2026****Date of Uploading : 24.04.2026****CORAM: HON'BLE MR. JUSTICE SUMEET GOEL**

Present: Mr. Amardeep Sheoran, Advocate for the petitioner.

Mr. Gurmeet Singh, AAG Haryana.

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**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 petitioner in case bearing FIR No.64 dated 23.03.2026, registered for the offences punishable under Sections 316(2), 318(4), and 61(2) of BNS, 2023, at Police Station Kosola, District Rewari.

2. The FIR in question has been registered on the basis of a written complaint made by Ankur son of Shri Kishori Lal. As per the allegations in the complaint, the complainant is employed as a Senior Manager in the HR Department of Fulkawa Minda Electric Pvt. Ltd. and is conversant with the transactions pertaining to the company. It has been alleged that on 13.03.2026, a consignment comprising 3500 kilograms of plastic granules (1500 kg PBT and 2000 kg POM) was received by the

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complainant company from Furukawa Sangyo, Gurugram, vide invoice No. FSK125-26 TAX 0254. On the same day, the said material was dispatched to KFI, Plot No. 38, Phase-II, Sector-05, through vehicle bearing registration No. HR55AE0686 driven by Praveen, along with delivery challan No. 90000539 and e-way bill No. 392207170276. Subsequently, on 16.03.2026, the complainant company was informed by an employee of KFI that the aforesaid consignment had not been received. Upon inquiry, the driver Praveen appeared before the complainant on 18.03.2026 and disclosed that, on the instructions of co-accused persons, the consignment had been diverted and offloaded at a scrap shop owned by one Punit situated at Bawal. It was further revealed that the goods were thereafter sold to a firm namely Prime Trade Solution. It has been further disclosed that the misappropriated material was allegedly reintroduced into the supply chain through manipulated transactions. Furthermore, the Prime Trade Solution supplied 2000 kg of POM to the complainant company on 14.03.2026 vide Invoice No. 016 which was then forwarded to KFI through delivery challan No. 90000540. Similarly, 1800 kg of PBT was supplied by Prime Trade Solution on 16.03.2026 vide Invoice No. 017 and was again sent to KFI through delivery challan No. 90000541. This sequence of transactions, as per the complainant, was part of a fraudulent scheme used by the accused persons to misappropriate the original consignment and conceal the same through circular trading. On the basis of the aforesaid allegations, it has been alleged that the driver Praveen, along with co-accused Shyam, Upkar (petitioner herein), Punit and Pankaj (owner of Prime Trade Solution), acted in conspiracy and committed fraud and criminal breach of trust with the

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complainant company. On these set of allegations, the FIR in question has been registered and investigation ensued.

3. Learned counsel for the petitioner has iterated that the petitioner has been falsely implicated into the FIR in question with an ulterior motive to harass and humiliate him. Learned counsel has further iterated that the petitioner has no direct role whatsoever in the alleged incident and has been roped in only on the basis of suspicion and conjectures. It has been further contended that the petitioner was not named in the initial complaint and his alleged involvement has surfaced only during the course of investigation on the basis of disclosure statements of co-accused persons which has no evidentiary value in the eyes of law. According to learned counsel, the entire prosecution case solely rests upon hearsay statement(s) without any independent corroboration which can link the petitioner to the alleged misappropriation. It has been further contended that the petitioner is merely an employee of KFI and has neither control over the transportation of the goods nor any authority to direct the driver or other persons with regard to delivery of the consignment. Furthermore, there is no material on record to suggest that the petitioner has issued any instruction for diversion of the goods or derived any wrongful gain from the alleged transaction. Learned counsel has emphasized that the allegations in the FIR are vague, omnibus and do not attribute any specific overt act to the petitioner so as to attract the ingredients of the offences alleged. It has been further contended that the entire case is primarily based on documentary evidence which are already in possession of the investigating agency, and therefore, the custodial interrogation of the petitioner is neither required nor

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warranted. Moreover, there is an unexplained delay in the registration of the FIR which casts serious doubt on the veracity of the prosecution version. Learned counsel asserts that the petitioner is ready to join the investigation and hence no useful purpose would be served by sending him behind the bars. On strength of aforesaid submissions, the grant of anticipatory bail is entreated for.

4. *Per contra*, learned State counsel has opposed the grant of anticipatory bail to the petitioner by arguing that the allegations against the petitioner are grave and serious in nature. Learned State counsel has iterated that the investigation conducted so far has clearly revealed the active involvement of the petitioner in the commission of the offence. According to learned State counsel, the petitioner, while working as a Store Keeper, is stated to have misused his official position and in furtherance of a premeditated criminal conspiracy, facilitated the diversion of the consignment of plastic granules to a scrap dealer at Bawal instead of its destination. It has been further contended that the complicity of the petitioner stands substantiated from the disclosure statements of the co-accused, as well as from the material collected during the course of investigation, including CDR (call detail records) between the petitioner and other accused persons at the relevant time. According to learned State counsel, the investigation is at crucial stage and custodial interrogation of the petitioner is necessary to recover forged documents, identify other conspirators and ascertain the extent of conspiracy. It has further been contended that the grant of anticipatory bail, at this stage, would seriously hamper the ongoing investigation. Accordingly, a prayer has been made for



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the dismissal of the instant petition in order to facilitate effective investigation into the alleged offence.

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

6. 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.*

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*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 enroled 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]**.)”*



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*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.”

7. As per the case put forth in the FIR in question, indubitably, serious allegations have been levelled against the petitioner. From the perusal of the FIR and the material available on record, it is evident that the instant case pertains to a misappropriation of a substantial quantity of plastic granules wherein the consignment was allegedly diverted from its original destination and subsequently routed back into the supply chain through manipulated commercial transactions. The factual matrix, as emerging from the record, *prima facie* discloses a coordinated effort on the part of multiple accused including the petitioner in order to cause wrongful loss to the company of the complainant and wrongful gain to themselves. As regard

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role ascribed to the petitioner, the material placed on record before this Court, at this stage, *prima facie* indicates that he is stated to have actively participated in the commission of offence. The petitioner, while working as a Store Keeper with the company of the complainant, has misused the colour of his office and facilitated the diversion of the consignment to a scrap dealer. The allegation is that such diversion was not accidental but rather was carried out in furtherance of a criminal conspiracy in order to misappropriate the goods. The record further reflects that the involvement of the petitioner has surfaced during the course of investigation through disclosure statement(s) of co-accused as well as through CDR (call detail records) which shows his communication with other accused persons at the relevant time.

8. From a *prima facie* reading of the FIR and the material collected during investigation, it cannot be said that the allegations against the petitioner are wholly vague or devoid of substance. The plea that the petitioner was not named in the initial complaint does not inspire confidence at this stage. The material collected so far reflects *prima facie* evidence of common intention and joint participation of the petitioner and co-accused, as reflected from the disclosure statement. The alleged involvement of the petitioner, though emerging at a subsequent stage, is supported by material collected during the course of investigation which lends corroboration to the prosecution version. In the considered view of this Court, the veracity of the disclosure statement(s) and the extent of the involvement of the petitioner in the offence, are matter(s) requiring thorough investigation which can be effectively undertaken only through custodial interrogation. The allegations



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in the FIR and the material collected during the course of investigation *prima facie* disclose an offence of cheating and criminal conspiracy in which the role of the present petitioner is currently under investigation. In the considered opinion of this Court, granting anticipatory bail to the petitioner, at this stage, would hamper the ongoing investigation and impede the recovery of material evidence. The stand of the investigating agency before this Court is that the custodial interrogation of the petitioner is necessary to trace the money trail, recover the forged documents and ascertain the role of other co-accused who may be involved in the transaction. 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 to hamper the ongoing investigation.

9. It is a trite law that the anticipatory bail is an extraordinary remedy and is to be granted only in exceptional circumstances where the Court is satisfied that the accused has been falsely implicated and that custodial interrogation is not required. Considering the nature of allegations, possibility of involvement of multiple persons and to uncover the broader conspiracy, if any, behind the occurrence coupled with the role of the petitioner, it is not appropriate to grant anticipatory bail to the petitioner at this nascent stage. No cause *nay* plausible cause has been shown, at this stage, from which it can be deciphered that the petitioner has been falsely implicated into the FIR in question. It is befitting to mention here that while considering a plea for grant of anticipatory bail, the Court has to equilibrate



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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 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 petitioner. 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 petitioner, 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.”*

10. In view of the gravity of the allegations, the specific role attributed to the petitioner as also the necessity of custodial interrogation for a fair and thorough investigation, this Court is of the considered opinion that

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the petitioner does not deserve the concession of anticipatory bail in the factual *milieu* of the case in hand.

11. In view of the prevenient ratiocination, it is ordained thus:
- (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**

April 23, 2026  
*Ajay*

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