



RESEARCH QUESTION

"How does bail work under the Bharatiya Nagarik Suraksha Sanhita, 2023, what are regular bail, anticipatory bail, and default bail, and what principles have the Supreme Court laid down about bail being the rule and jail the exception?"

# Bail Under the Bharatiya Nagarik Suraksha Sanhita, 2023: Regular, Anticipatory, and Statutory Bail, and the "Bail is the Rule" Jurisprudence

TL;DR

Under the Bharatiya Nagarik Suraksha Sanhita, 2023 (BNSS), regular bail is governed by Sections 480, 481, and 483, anticipatory bail by Section 482, and statutory/default bail is reformed under Section 479, which reduces the required pre-trial detention for first-time offenders to one-third of the maximum sentence. Reaffirming this framework under Article 21 of the Constitution, the Supreme Court in *Satender Kumar Antil v. Central Bureau of Investigation* (2022) established that the deprivation of liberty is inherently punitive, cementing the cardinal principle that bail remains the rule and jail the exception.

| VERIFIED CASES              | STATUTES | LATEST RULING                            |
|-----------------------------|----------|------------------------------------------|
| 25<br>19 High Courts • 6 SC | 3        | 2025<br>High Court of Punjab and Haryana |

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## I. Detailed Analysis

### KEY PRINCIPLES ESTABLISHED

#### 01 Reduction of Pre-Trial Detention Limits for First-Time Offenders

The statutory threshold for statutory undertrial bail is reduced under Section 479 of the BNSS, facilitating earlier relief for first-time offenders who have undergone detention for one-third of the maximum sentence, as clarified in *Manoj Kumar Soni v. State of Chhattisgarh* (2025).

#### 02 Unfettered Nature of Pre-Arrest Discretion

The power to grant anticipatory bail under Section 482 of the BNSS is a crucial safeguard for personal liberty that cannot be fettered by inflexible judicial limitations or restricted only to rare, exceptional cases, as established in *Gurbaksh Singh Sibbia v. State of Punjab* (1980).

#### 03 Inherent Power and Surrender to Court Custody

Regular bail jurisdiction under Section 483 of the BNSS is triggered the moment an accused physically surrenders before a superior court, establishing legal custody and allowing direct adjudication on the merits without a prior magisterial remand order, as set out in *Sundeep Kumar Bafna v. State of Maharashtra & Anr.* (2014).

#### 04 Protection Against Mechanical Post-Cognizance Remands

Accused persons who were not arrested during the investigation must not be routinely remanded to judicial custody post-cognizance, as their voluntary appearance and execution of a bail bond are sufficient to secure presence before the court, as recognized in *Bacchi Devi v. State of U.P.* (2025).

#### 05 Transit Anticipatory Bail for Inter-State Accusations

High Courts and Courts of Session have the authority to grant temporary, limited pre-arrest protection to an accused residing in their territory even if the FIR is registered in another state, as held in *Priya Indoria v. State of Karnataka* (2023).

### HOW THE COURTS HAVE APPLIED THIS

|                               |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                |
|-------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>SUPREME COURT POSITION</b> | The apex court has repeatedly ruled that anticipatory bail, once granted, should ordinarily continue until the end of the trial rather than being curtailed to a limited duration, as restrictions on its life run contrary to legislative intent ( <i>Siddharam Satlingappa Mhetre v. State of Maharashtra</i> (2010)). Additionally, where serious charges are added with massive, unexplained delays, forcing the cooperative accused into pre-trial custody serves no legitimate purpose and pre-arrest protection must be restored ( <i>Bhadresh Bipinbhai Sheth v. State of Gujarat</i> (2015)).                                                                                                                                                         |
| <b>HIGH COURT VARIATIONS</b>  | High Courts have strictly enforced the arrest restrictions under Section 35(1)(b) (ii) of the BNSS, holding that pre-arrest protection is mandatory for offenses punishable by up to seven years if the State fails to show a necessity for custodial interrogation or a flight risk ( <i>Amit Kumar v. State of U.P.</i> (2024)). Conversely, High Courts consistently deny anticipatory bail in serious multi-jurisdictional cyber frauds ( <i>Vikash Kumar Kishorbhai Amin v. State of Punjab</i> (2025)), violent crimes involving heinous injuries ( <i>Jagmeet Singh v. State of Punjab</i> (2025)), and when the accused shows complete disregard for court orders and evades investigation ( <i>Harpreet Singh @ Happy v. State of Punjab</i> (2025)). |
| <b>RECENT EVOLUTION</b>       | In recent 2025 cases, courts have increasingly prioritized Article 21 right to a speedy trial over serious accusations to address jail overcrowding when the investigation is complete ( <i>Savej v. State of U.P.</i> (2025)), and have granted anticipatory bail where significant, unexplained delays exist in filing a private matrimonial complaint and the accused is not a flight risk ( <i>Kasimkota Kameswara Rao v. State of Andhra Pradesh</i> (2025)).                                                                                                                                                                                                                                                                                             |

#### UNSETTLED AREAS OR CAVEATS

##### Liberty Balanced Against Societal Interest

The discretionary power of bail is not absolute and must be guided by sound legal principles rather than spasmodic sentiment, recognizing that the interests of the society and the State prevail over personal liberty in grave public matters (*Suresh Kumar v. State of Telangana* (2017)).

## The Primacy of Custodial Interrogation

Courts caution that pre-arrest bail must be denied if the investigation is at its threshold and effective interrogation is necessary to disinter concealed materials, as protecting the accused at this stage would reduce interrogation to a "mere ritual" (*Lovepreet Singh v. State of Haryana* (2025)).

## II. Statutory Provisions 3 PROVISIONS

### SECTION 483, BHARATIYA NAGARIK SURAKSHA SANHITA, 2023 — SPECIAL POWERS OF HIGH COURT OR COURT OF SESSION REGARDING BAIL

Empowers the High Court or Court of Session to release an accused in custody on bail, modify conditions imposed by a Magistrate, and direct the arrest of a person previously released on bail.

"483. Special powers of High Court or Court of Session regarding bail.—(1) A High Court or Court of Session may direct,— (a) that any person accused of an offence and in custody be released on bail, and if the offence is of the nature specified in sub-section (3) of section 480, may impose any condition which it considers necessary for the purposes mentioned in that sub-section; (b) that any condition imposed by a Magistrate when releasing any person on bail be set aside or modified: Provided that the High Court or the Court of Session shall, before granting bail to a person who is accused of an offence which is triable exclusively by the Court of Session or which, though not so triable, is punishable with imprisonment for life, give notice of the application for bail to the Public Prosecutor..." *Cited in: Manoj Kumar Soni v. State of Chhattisgarh, Naresh Kumar Gulia v. Directorate of Enforcement, Pawan Kumar v. UT of Jammu and Kashmir, Vasu Sharma v. UT of J&K, Angrej Kaur v. State of Punjab, Bacchi Devi v. State of U.P., Amit Kumar v. State of U.P.*

### SECTION 481, BHARATIYA NAGARIK SURAKSHA SANHITA, 2023 — WHEN BAIL MAY BE TAKEN IN CASE OF NON-BAILABLE OFFENCE

Lays down conditions and restrictions for the release of an accused on bail in non-bailable cases by a court other than the High Court or Court of Sessions, detailing mandatory conditions and maximum trial durations for persons in custody.

"(2) If it appears to such officer or Court at any stage of the investigation, inquiry or trial, as the case may be, that there are not reasonable grounds for believing that the accused has committed a non-bailable offence, but that there are sufficient grounds for further inquiry into his guilt, the accused shall... be released on bail, or, at the discretion of such officer or Court, on the execution by him of a bond for his appearance... (6) If, in any case triable by a Magistrate, the trial of a person accused of any non-bailable offence is not concluded within a period of sixty days from the first date fixed for taking evidence in the case, such person shall, if he is in custody during the whole of the said period, be released on bail..." *Cited in: Manoj Kumar Soni v. State of Chhattisgarh, Naresh Kumar Gulia v. Directorate of Enforcement, Pawan Kumar v. UT of Jammu and Kashmir, Vasu Sharma v. UT of J&K, Angrej Kaur v. State of Punjab, Bacchi Devi v. State of U.P., Amit Kumar v. State of U.P.*

**SECTION 482, BHARATIYA NAGARIK SURAKSHA SANHITA, 2023 — DIRECTION FOR GRANT OF BAIL TO PERSON APPREHENDING ARREST**

Enables a person who apprehends arrest on an accusation of a non-bailable offence to apply for anticipatory bail from the High Court or the Court of Session, which can direct their release upon arrest subject to specific conditions.

"Section 482. Direction for grant of bail to person apprehending arrest\n\n(1) When any person has reason to believe that he may be arrested on an accusation of having committed a non-bailable offence, he may apply to the High Court or the Court of Session for a direction under this section; and that Court may, if it thinks fit, direct that in the event of such arrest, he shall be released on bail." *Cited in: Naresh Kumar Gulia v. Directorate of Enforcement, Vasu Sharma v. UT of J&K, Bacchi Devi v. State of U.P.*

III. Cases Discussed

25 CASES · SUMMARY TABLE

| #  | CASE TITLE                                                                         | COURT                            | YEAR | KEY HOLDING                                                                                                |
|----|------------------------------------------------------------------------------------|----------------------------------|------|------------------------------------------------------------------------------------------------------------|
| 01 | <i>Lovepreet Singh v. State of Haryana</i><br>PHHC010645402025                     | HIGH COURT OF PUNJAB AND HARYANA | 2025 | Denies pre-arrest bail as custodial interrogation is essential for early-stage fraud investigation.        |
| 02 | <i>Vasu Sharma v. UT of J&amp;K</i><br>JKHC020042102024                            | HIGH COURT OF JAMMU AND KASHMIR  | 2024 | Denies pre-arrest protection in heinous offenses where custodial interrogation is necessary.               |
| 03 | <i>Naresh Kumar Gulia v. Directorate of Enforcement</i><br>JKHC020010602025        | HIGH COURT OF JAMMU AND KASHMIR  | 2025 | Denies pre-arrest bail in massive cryptocurrency Ponzi schemes requiring custodial interrogation.          |
| 04 | <i>Savej v. State of U.P.</i><br>UPHC013312422025                                  | ALLAHABAD HIGH COURT             | 2025 | Grants bail citing Article 21, speedy trial, and jail overcrowding when charge-sheet is filed.             |
| 05 | <i>Harpreet Singh @ Happy v. State of Punjab</i><br>PHHC010626732025               | HIGH COURT OF PUNJAB AND HARYANA | 2025 | Denies anticipatory bail where accused fails to cooperate and evades the investigation.                    |
| 06 | <i>Satender Kumar Antil v. Central Bureau of Investigation</i><br>ESCR010005852022 | SUPREME COURT OF INDIA           | 2022 | Reaffirms bail is the rule and jail the exception, safeguarding Article 21 liberties.                      |
| 07 | <i>Jagmeet Singh v. State of Punjab</i><br>PHHC011135052025                        | HIGH COURT OF PUNJAB AND HARYANA | 2025 | Rejects pre-arrest bail in violent assault cases due to gravity and need for interrogation.                |
| 08 | <i>Dharamvir Singh v. State of Haryana</i><br>PHHC010541952025                     | HIGH COURT OF PUNJAB AND HARYANA | 2025 | Denies pre-arrest bail in multi-crore cyber fraud conspiracies requiring custodial interrogation.          |
| 09 | <i>Bhadresh Bipinbhai Sheth v. State of Gujarat</i><br>ESCR010000372015            | SUPREME COURT OF INDIA           | 2015 | Grants pre-arrest protection when serious charges are added with extreme, unexplained delay.               |
| 10 | <i>Bacchi Devi v. State of U.P.</i><br>UPHC010879892025                            | ALLAHABAD HIGH COURT             | 2025 | Rejects mechanical post-cognizance arrests for accused who were not arrested during investigation.         |
| 11 | <i>Priya Indoria v. State of Karnataka</i><br>ESCR010007832023                     | SUPREME COURT OF INDIA           | 2023 | Authorizes transit anticipatory bail across state lines in exceptional circumstances to safeguard liberty. |
| 12 | <i>Simranjit Singh v. State of Haryana</i><br>PHHC011119302025                     | HIGH COURT OF PUNJAB AND HARYANA | 2025 | Rejects pre-arrest bail in large-scale land fraud conspiracies requiring custodial interrogation.          |

| #  | CASE TITLE                                                                        | COURT                             | YEAR | KEY HOLDING                                                                                              |
|----|-----------------------------------------------------------------------------------|-----------------------------------|------|----------------------------------------------------------------------------------------------------------|
| 13 | <i>Angrej Kaur v. State of Punjab</i><br>PHHC011384142024                         | HIGH COURT OF PUNJAB AND HARYANA  | 2024 | Denies pre-arrest bail in heinous murder allegations to facilitate crucial custodial interrogation.      |
| 14 | <i>Sandeep v. State of Haryana</i><br>PHHC011382542025                            | HIGH COURT OF PUNJAB AND HARYANA  | 2025 | Denies pre-arrest bail in employment forgery scam due to necessity of custodial recovery.                |
| 15 | <i>Akash @ Ravi v. State of Punjab</i><br>PHHC010650912025                        | HIGH COURT OF PUNJAB AND HARYANA  | 2025 | Denies pre-arrest bail under NDPS Act where petitioner has a history of similar offenses.                |
| 16 | <i>Amit Kumar v. State of U.P.</i><br>UPHC014816012024                            | ALLAHABAD HIGH COURT              | 2024 | Grants pre-arrest bail under BNSS for offenses carrying sentences under seven years without flight risk. |
| 17 | <i>Baljeet Singh v. State of Punjab</i><br>PHHC010635912025                       | HIGH COURT OF PUNJAB AND HARYANA  | 2025 | Rejects pre-arrest bail when petitioner fails to honor a mediation settlement in fraud.                  |
| 18 | <i>Pawan Kumar v. UT of Jammu and Kashmir</i><br>JKHC020036002024                 | HIGH COURT OF JAMMU AND KASHMIR   | 2024 | Balances individual liberty under Article 21 with societal interests in sexual offense bail pleas.       |
| 19 | <i>Manoj Kumar Soni v. State of Chhattisgarh</i><br>CGHC010086552025              | HIGH COURT OF CHHATTISGARH        | 2025 | Reaffirms retrospective benefit of Section 479 BNSS, reducing undertrial statutory bail limits.          |
| 20 | <i>Siddharam Satlingappa Mhetre v. State of Maharashtra</i><br>ESCR010003512010   | SUPREME COURT OF INDIA            | 2010 | Rules that pre-arrest bail is not of limited duration and continues till trial ends.                     |
| 21 | <i>Sundeep Kumar Bafna v. State of Maharashtra &amp; Anr.</i><br>ESCR010004842014 | SUPREME COURT OF INDIA            | 2014 | Rules custody begins upon voluntary surrender to court, triggering superior court bail powers.           |
| 22 | <i>Vikash Kumar Kishorbhai Amin v. State of Punjab</i><br>PHHC010967062025        | HIGH COURT OF PUNJAB AND HARYANA  | 2025 | Rejects anticipatory bail for cybercrime kingpin where custodial interrogation is indispensable.         |
| 23 | <i>Suresh Kumar v. State of Telangana</i><br>HBHC010077352017                     | HIGH COURT FOR STATE OF TELANGANA | 2017 | Directs that bail discretion be guided by law and guidelines, not spasmodic sentiment.                   |
| 24 | <i>Kasimkota Kameswara Rao v. State of Andhra Pradesh</i><br>APHC010245102025     | HIGH COURT OF ANDHRA PRADESH      | 2025 | Grants anticipatory bail in delayed dowry complaint where petitioner poses no flight risk.               |
| 25 | <i>Gurbaksh Singh Sibbia v. State of Punjab</i><br>ESCR010002511980               | SUPREME COURT OF INDIA            | 1980 | Rejects restrictive judicial guidelines on pre-arrest bail, prioritizing Article 21 personal liberty.    |



## IV. Case Details 25 CASE FILES

### 01 Lovepreet Singh v. State of Haryana

HIGH COURT OF PUNJAB AND HARYANA • 2025-05-27 • CRM-M/22657/2025

The petitioner sought anticipatory bail in connection with a fraud case involving false promises of securing medical college admissions. The complainant alleged that the petitioner, acting under the alias 'Manjeet Singh,' defrauded him of over 15 lakh rupees. The state argued that the petitioner was a habitual offender with similar criminal cases pending against him and that evidence, including CCTV footage, linked him to the crime. Noting that the investigation was at a preliminary stage and that the petitioner's complicity appeared prima facie established, the Punjab and Haryana High Court denied the application, ruling that custodial interrogation was necessary for a fair investigation and that the petitioner did not warrant the exercise of extraordinary bail powers.

**HELD** The High Court denied the anticipatory bail application under Section 482 of the BNSS, ruling that the petitioner's complicity was prima facie established and the investigation was in its initial stages. The court emphasized that pre-arrest protection is an extraordinary discretion to be exercised only in unique circumstances and cannot be granted when it would scuttle an ongoing, threshold investigation.

"We find force in the submission of the CBI that custodial interrogation is qualitatively more elicitation oriented than questioning a suspect who is well ensconced with a favorable order under Section 438 if the code. In a case like this effective interrogation of suspected person is of tremendous advantage in disinterring many useful informations and also materials which would have been concealed."

HIGH COURT OF PUNJAB AND HARYANA • 2025

SOURCE PHHC010645402025

### 02 Vasu Sharma v. UT of J&K

HIGH COURT OF JAMMU AND KASHMIR • 2024-08-14 • BAIL APP/176/2024

The petitioners sought pre-arrest bail under Section 482 of the Bharatiya Nagrik Suraksha Sanhita (BNSS) in connection with an FIR registered for various offences, including attempt to murder, following a property dispute. The petitioners argued they were falsely implicated due to personal enmity and that their prior bail application was rejected on unjustified grounds. The State and the complainant opposed the application, contending that it was a successive bail plea without any change in circumstances, that the alleged offences were heinous, and that custodial interrogation was essential for a fair investigation. Due to the seriousness of the allegations and the requirement for custodial investigation, the Court declined to grant the relief requested.

**HELD** The High Court rejected the anticipatory bail application under Section 482 BNSS, noting that pre-arrest bail remains an extraordinary concession that should only be extended in highly justified cases. The court ruled that limitations on regular bail are imported into anticipatory bail applications and, given the serious allegations of an attempt to murder, pre-arrest protection must be denied.

“An Investigating Agency shall always bear in mind that an accused is presumed to be innocent till he is proved guilty and he has a valuable right of personal liberty inseparable from him except in cases and under circumstances itself provided under the Constitution, and the Bharatiya Nagrik Suraksha Sanhita (BNSS).”

HIGH COURT OF JAMMU AND KASHMIR • 2024

SOURCE JKHC020042102024

### 03 Naresh Kumar Gulia v. Directorate of Enforcement

HIGH COURT OF JAMMU AND KASHMIR • 2025-07-15 • BAIL APP/51/2025

The petitioner filed for pre-arrest bail under the Prevention of Money Laundering Act (PMLA) regarding an alleged Ponzi scheme involving fake cryptocurrency. The Directorate of Enforcement alleged the petitioner was a mastermind who managed fraudulent companies and lured investors into a scheme that resulted in significant financial losses to thousands of individuals. The agency argued the petitioner has been evading investigation, failed to comply with multiple summons, and is suspected of being abroad. The agency further highlighted that proceeds of crime were traced to the petitioner's bank accounts. The court rejected the application, emphasizing the necessity of custodial interrogation.

**HELD** The High Court dismissed the pre-arrest bail application, stating that judicial discretion under Section 482 of the BNSS must be exercised with utmost care and circumspection. The court held that the individual's liberty must be balanced against the larger interests of society, and the gravity of economic offenses coupled with non-cooperation requires custodial investigation.

“The liberty of an individual must be balanced against the larger interests of the society and the State; iv) The court must weigh in the judicial scales, pros and cons varying from case to case all along bearing in mind two paramount considerations viz; v) Grant of bail quo an offence punishable with death or imprisonment for life is an exception and not the rule;”

HIGH COURT OF JAMMU AND KASHMIR • 2025

SOURCE JKHC020010602025

### 04 Savej v. State of U.P.

ALLAHABAD HIGH COURT • 2025-09-08 • BAIL/24026/2025

The applicant, Savej, sought bail after being charged under the Bharatiya Nyaya Sanhita and the Unlawful Activities (Prevention) Act for allegedly circulating a video on WhatsApp that contained adverse comments against the Prime Minister and was deemed to affect communal harmony and national security. The prosecution opposed bail, highlighting the serious nature of the allegations. The Allahabad High Court granted bail, noting that the applicant had no prior criminal history and that the investigation had already concluded with the filing of a charge-sheet. Citing the constitutional right to a speedy trial and the overcrowding of jails, the Court allowed the bail application subject to conditions, including the requirement for personal bonds and two heavy sureties.

**HELD** The High Court allowed the regular bail application, ruling that under-trial prisoners have a fundamental right to a speedy trial under Article 21 of the Constitution. The court held that since the charge-sheet was already filed, the trial's conclusion was uncertain, and local jails were overcrowded beyond capacity, pre-trial detention must not be prolonged.

“Having considered the submissions of the parties noted above, finding force in the submissions made by the learned counsel for the applicant; keeping in view uncertainty regarding conclusion of trial; applicant being under-trial having fundamental right to speedy trial; larger mandate of the Article 21 of the Constitution of India, bail application is allowed.”

ALLAHABAD HIGH COURT • 2025

SOURCE UPHC013312422025

## 05 Harpreet Singh @ Happy v. State of Punjab

HIGH COURT OF PUNJAB AND HARYANA • 2025-04-25 • CRM-M/21673/2025

The petitioner filed an application for anticipatory bail regarding a theft case involving transformer oil. The petitioner had previously been granted interim bail by a lower court on two separate occasions but failed to comply with the court's directions to join the investigation, despite being granted extensions. The High Court observed that the petitioner demonstrated a lack of respect for judicial orders and that custodial interrogation was necessary to facilitate an effective investigation. Consequently, the High Court declined to exercise its extraordinary jurisdiction and dismissed the petition for anticipatory bail.

**HELD** The High Court dismissed the anticipatory bail plea under Section 482 of the BNSS, ruling that the petitioner's continuous failure to comply with interim protections and cooperate with the police disqualified him from pre-arrest relief. The court held that while individual liberty is valuable, the interests of society and legitimate investigation must prevail.

“As per the law settled by the Hon'ble Supreme Court, in Gurbaksh Singh Sibbia Vs. State of Punjab, AIR 1980 SC 1632, while granting anticipatory bail, the Court is to maintain a balance between the individual liberty and the interest of society. However, the interest of the society would always prevail upon the right of personal liberty.”

HIGH COURT OF PUNJAB AND HARYANA • 2025

SOURCE PHHC010626732025

## 06 Satender Kumar Antil v. Central Bureau of Investigation

SUPREME COURT OF INDIA • 2022-07-11 • 2022 INSC 690

This case addressed systemic issues regarding bail and the detention of undertrial prisoners in India. The Supreme Court emphasized that arrest is not mandatory in every cognizable offense, stressing strict compliance with Sections 41 and 41A of the Code of Criminal Procedure (CrPC). The Court clarified that bail applications are not required when an accused is produced before a magistrate under Sections 88, 170, 204, and 209 of the CrPC. Additionally, the Court issued directives to streamline bail procedures, ensure timely disposal of applications,

and urged the government to consider a dedicated Bail Act. It underscored that judicial discretion in granting bail must be exercised consistently to protect individual liberty under Article 21.

**HELD** The Supreme Court held that the object of bail is to secure the appearance of the accused person at trial, and that deprivation of liberty is inherently punitive. The Court ruled that bail is the rule and jail is the exception, declaring that Article 21 serves as the absolute constitutional repository of substantive and procedural rights protecting individual liberty against routine pre-trial detention.

“In bail applications, generally, it has been laid down from the earliest times that the object of bail is to secure the appearance of the accused person at his trial by reasonable amount of bail. The object of bail is neither punitive nor preventative. Deprivation of liberty must be considered a punishment, unless it is required to ensure that an accused person will stand his trial when called upon.”

SUPREME COURT OF INDIA • 2022

SOURCE ESCR010005852022

## 07 Jagmeet Singh v. State of Punjab

HIGH COURT OF PUNJAB AND HARYANA • 2025-07-25 • CRM-M/39562/2025

The petitioner sought anticipatory bail in connection with an FIR involving charges of assault, rioting, and use of dangerous weapons. The complainant alleged that the petitioner and others attacked him, resulting in 19 injuries, including four grievous ones. The petitioner contended that the allegations were general and the injuries were simple, claiming false implication. The High Court denied the petition, noting that the investigation was in its initial stages and the petitioner's involvement was prima facie evident. The court emphasized the necessity of custodial interrogation to effectively uncover facts and evidence, concluding that the gravity of the offenses and the ongoing nature of the investigation precluded the grant of anticipatory relief.

**HELD** The High Court denied the anticipatory bail application, noting that the investigation was in its initial stages and the offenses involved a violent assault causing numerous injuries. The court held that the freedom of an individual must be balanced against societal survival, and pre-arrest protection cannot be granted when active custodial interrogation is necessary to recover weapon evidence.

“The freedom of the individual is as necessary for the survival of the society as it is for the egoistic purposes of the individual. A person seeking anticipatory bail is still a free man entitled to the presumption of innocence. He is willing to submit to restraints on his freedom, by the acceptance of conditions which the court may think fit to impose, in consideration of the assurance that if arrested, he shall be enlarged on bail.”

HIGH COURT OF PUNJAB AND HARYANA • 2025

SOURCE PHHC011135052025

## 08 Dharamvir Singh v. State of Haryana

HIGH COURT OF PUNJAB AND HARYANA • 2025-09-09 • CRM-M/19724/2025

This case concerns petitions for anticipatory bail filed by individuals accused of involvement in a large-scale cyber fraud scheme. The petitioners were allegedly part of a company that duped thousands of investors across India by promising high returns on investments through a leadership development program. While the petitioners claimed they were also victims who invested their own money and had no direct receipt of the complainants' funds, the State opposed the bail, citing evidence that the petitioners actively assisted the main accused by organizing leadership programs, including those held abroad, to entice further investment. Given the ongoing investigation and the nature of the offenses, the court denied the request for anticipatory bail.

**HELD** The High Court dismissed the anticipatory bail petitions under Section 482 of the BNSS, holding that the gravity and magnitude of the cyber fraud scheme (approximately 500 crores) required custodial interrogation. The court ruled that effective custodial interrogation is qualitatively more elicitation-oriented and is of tremendous advantage in disinterring hidden materials that would otherwise remain concealed.

“We find force in the submission of the CBI that custodial interrogation is qualitatively more elicitation oriented than questioning a suspect who is well ensconded with a favorable order under 438 if the code.”

HIGH COURT OF PUNJAB AND HARYANA • 2025

SOURCE PHHC010541952025

## 09 Bhadresh Bipinbhai Sheth v. State of Gujarat

SUPREME COURT OF INDIA • 2015-09-01 • 2015 INSC 623

This case concerned an application for anticipatory bail following the belated addition of a serious charge under Section 376 of the Indian Penal Code, 17 years after the alleged incident. The original FIR, filed in 2001, only included a charge under Section 506(2) of the IPC, and the appellant had participated in trial proceedings for years without allegation of witness tampering or flight risk. The Supreme Court set aside the High Court's order cancelling the bail, holding that the significant delay in adding the rape charge, combined with the prosecutrix's initial inaction and the appellant's continued compliance with trial proceedings, justified the grant of anticipatory bail. The Court restored the Sessions Judge's order, noting that no purpose would be served by compelling the appellant to face incarceration as an undertrial.

**HELD** The Supreme Court allowed the appeal and granted anticipatory bail, holding that the addition of a severe charge after an unexplained delay of 17 years, during which the accused consistently cooperated, justified pre-arrest protection. The Court ruled that judicial discretion must balance individual liberty and the interests of the society, ensuring that pre-arrest bail is not denied solely because the offence is serious if the facts show no risk of flight or non-cooperation.

“The order granting or refusing bail: must reflect perfect balance between the conflicting interests, namely, sanctity of individual liberty and the interest of the society. The law of bails dovetails two conflicting interests, namely, on the one hand, the requirements of shielding society from the hazards of those committing crimes and potentiality of repeating the same crime while on bail and on the other hand, absolute adherence to the fundamental principle of criminal jurisprudence regarding presumption of innocence of an accused until he is found guilty and the sanctity of individual liberty.”

SUPREME COURT OF INDIA • 2015

SOURCE ESCR010000372015

## 10 Bacchi Devi v. State of U.P.

ALLAHABAD HIGH COURT • 2025-08-11 • NA528/6400/2025

The applicant sought to quash a summoning order and charge-sheet regarding alleged copyright infringement and fraud. The court noted a recurrent trend where accused persons, not arrested during investigation, file applications under Section 528 BNSS (formerly 482 Cr.P.C.) solely to avoid mandatory judicial custody upon their first appearance before the trial court. The court highlighted the unnecessary procedural burden caused by trial courts requiring custodial remand even when investigation is complete and no arrest was deemed necessary by police. Consequently, the court addressed the broader issue of procedural fairness, emphasizing that the practice of routine incarceration in such cases contradicts established Supreme Court guidelines on personal liberty.

**HELD** The High Court held that the trial courts' practice of forcing non-arrested accused to surrender and seek fresh regular bail post-cognizance is a severe procedural anomaly. The court ruled that appearance and a bail bond are sufficient to secure the accused's presence, and mechanical remand post-cognizance violates established Article 21 jurisprudence.

“In Gurbaksh Singh Sibbia (supra), the Constitution Bench of the Supreme Court laid down the foundational principles of anticipatory bail. It held that (i) anticipatory bail is not an extraordinary remedy, to be granted only in rare cases, but a part of the broader right to liberty under Article 21, (ii) there is no fixed time limit or procedural stage beyond which anticipatory bail cannot be granted, and (iii) the Court must balance the interests of liberty and legitimate investigation without treating arrest as necessary in every case.”

ALLAHABAD HIGH COURT • 2025

SOURCE UPHC010879892025

## 11 Priya Indoria v. State of Karnataka

SUPREME COURT OF INDIA • 2023-11-20 • 2023 INSC 1008

This case addressed whether High Courts or Courts of Session can grant anticipatory bail for an offense committed within the jurisdiction of another state. The Supreme Court ruled that while an accused cannot seek full-fledged anticipatory bail outside the state where the FIR is registered, they may apply for limited 'transit anticipatory bail' in the state where they reside. This serves to protect the accused's right to liberty and access to justice, preventing irreversible prejudice until a regular application can be filed in the competent jurisdiction. The

court emphasized that such relief should only be granted in exceptional circumstances and required courts to verify the territorial connection of the applicant to prevent misuse of the process.

**HELD** The Supreme Court ruled that superior courts have concurrent jurisdiction to grant transit anticipatory bail, providing limited pre-arrest protection to an accused residing within their jurisdiction even if the FIR is registered in another state. The Court held that this mechanism is essential to protect Article 21 rights and prevent immediate, irreversible prejudice during the transit period.

“The decision of the Calcutta High Court was followed by the Full Bench of the Lahore High Court in Hidayat Ullah Khan vs. The Crown, AIR 1949 Lah 77 wherein the petitioners being apprehensive of institution of criminal proceedings had outlined reasons for the apprehension and sought pre-arrest bail till the disposal of the trial. The petitioners had averred that such arrest would amount to victimization, and would be a cause of disgrace and dishonour to them.”

SUPREME COURT OF INDIA • 2023

SOURCE ESCR010007832023

## 12 Simranjit Singh v. State of Haryana

HIGH COURT OF PUNJAB AND HARYANA • 2025-07-21 • CRM-M/38357/2025

The petitioner sought anticipatory bail in a criminal case involving allegations of impersonation and land fraud. The complainants alleged that the petitioner and co-accused falsely represented themselves as landowners, entered into a land sale agreement, and cheated the complainants of Rs. 80 lakhs. After discovering the fraud, the complainants filed an FIR against the accused. The High Court denied the bail application, noting that the investigation was in its initial stages and the petitioner's role in the conspiracy was prima facie established. Citing the necessity for custodial interrogation to facilitate an effective investigation, the court concluded that the petitioner did not meet the criteria for pre-arrest protection.

**HELD** The High Court dismissed the application for anticipatory bail under Section 482 of the BNSS, ruling that the petitioner's involvement in a multi-lakh land scam was prima facie established. The court held that the gravity of the accusations and the need for custodial recovery of materials weighed heavily against granting extraordinary pre-arrest relief.

“The nature and seriousness of the proposed charges, the context of the events likely to lead to the making of the charges, a reasonable possibility of the applicant's presence not being secured at the trial, a reasonable apprehension that witnesses will be tampered with and “the larger interests of the public or the state” are some of the considerations which the court has to keep in mind while deciding an application for anticipatory bail.”

HIGH COURT OF PUNJAB AND HARYANA • 2025

SOURCE PHHC011119302025

## 13 Angrej Kaur v. State of Punjab

HIGH COURT OF PUNJAB AND HARYANA • 2024-10-18 • CRM-M/51301/2024

The petitioner sought anticipatory bail in connection with an FIR alleging the murder of her 13-year-old daughter. The prosecution alleged that the petitioner and her brother-in-law conspired to poison and strangle the child after the daughter discovered their illicit relationship, subsequently cremating the body without a post-mortem to destroy evidence. The petitioner argued that the death was caused by a snake bite and that she was being falsely implicated. The High Court denied the petition, finding that the allegations were serious and that the investigation was at its initial stage. Emphasizing the necessity of custodial interrogation to unravel the circumstances of the minor's death, the court held that granting pre-arrest bail would hinder a fair investigation.

**HELD** The High Court rejected the anticipatory bail application under Section 482 of the BNSS, ruling that accusations of a mother poisoning and murdering her own child are of an exceptionally heinous nature. The court held that because the investigation was at its threshold, custodial interrogation was indispensable to unravel the conspiracy and could not be bypassed.

“Needless to say, the allegations made against the petitioner regarding her complicity in the murder of her own daughter are serious in nature. The investigation is at threshold.”

HIGH COURT OF PUNJAB AND HARYANA • 2024

SOURCE PHHC011384142024

## 14 Sandeep v. State of Haryana

HIGH COURT OF PUNJAB AND HARYANA • 2025-09-11 • CRM-M/48215/2025

The petitioner sought anticipatory bail in connection with a criminal case involving allegations of fraud and forgery. The complainants alleged that the petitioner and his wife promised them government teaching positions in exchange for money, ultimately providing fake joining letters. The prosecution argued that the petitioner failed to join the investigation despite multiple notices, and that his custodial interrogation was necessary to recover forged documents. Observing the gravity of the offences and the prima facie evidence of the petitioner's involvement, the High Court declined the petition for anticipatory bail.

**HELD** The High Court denied the anticipatory bail application, holding that the petitioner's active involvement in a fake government job recruitment scam was prima facie established. The court ruled that custodial interrogation was necessary to recover forged letters and trace other co-conspirators, and that extraordinary pre-arrest relief should be limited to extraordinary circumstances.

“The anticipatory bail is an extraordinary discretion which should be exercised in the extraordinary circumstances.”

HIGH COURT OF PUNJAB AND HARYANA • 2025

SOURCE PHHC011382542025

## 15 Akash @ Ravi v. State of Punjab

HIGH COURT OF PUNJAB AND HARYANA • 2025-04-25 • CRM-M/22053/2025

The petitioner filed for anticipatory bail in connection with an FIR registered under the NDPS Act following the recovery of contraband from a co-accused. The petitioner contended that he was not named in the FIR and that



his implication was based solely on an inadmissible disclosure statement from the co-accused. The State opposed the bail application, highlighting the petitioner's criminal history, which includes multiple prior cases involving similar NDPS offenses. The High Court rejected the bail application, emphasizing that the investigation is at an initial stage. The Court held that custodial interrogation is essential in such cases and that granting anticipatory bail would hinder the ongoing investigation. The petitioner's arguments regarding lack of recovery were deemed premature at the pre-arrest stage.

**HELD** The High Court dismissed the application for pre-arrest bail under Section 482 of the BNSS, ruling that the petitioner was already facing prosecution in five other active cases. The court held that a significant criminal history, particularly in NDPS offenses, weighs heavily against the court exercising its extraordinary pre-arrest discretionary power.

"Though the FSL report is awaited, however the Court cannot ignore the fact that the petitioner is already facing prosecution in 05 other cases. The investigation is at threshold."

HIGH COURT OF PUNJAB AND HARYANA • 2025

SOURCE PHHC010650912025

## 16 Amit Kumar v. State of U.P.

ALLAHABAD HIGH COURT • 2024-09-29 • NABAIL/9070/2024

This anticipatory bail application was filed by Amit Kumar and Sompal in relation to criminal charges under the Bharatiya Nyaya Sanhita. The court noted that the alleged offences were punishable by up to seven years of imprisonment, necessitating adherence to the arrest guidelines stipulated in the Bharatiya Nagarik Suraksha Sanhita (BNSS). Finding that the State failed to demonstrate a necessity for custodial interrogation or evidence of potential flight or witness tampering, and noting the applicants had no prior criminal record, the court allowed the application. The applicants were granted anticipatory bail until the submission of the charge sheet, subject to specific conditions regarding their cooperation with the investigation and presence during trial.

**HELD** The High Court granted anticipatory bail, ruling that because the offenses were punishable by up to seven years, the arrest guidelines under Section 35(1)(b)(ii) of the BNSS must be adhered to. The court held that since the State failed to demonstrate the necessity for custodial interrogation or a risk of flight, the applicants' liberty under Article 21 read with Section 62 of the BNSS stands protected.

"Once the conditions of Section 35(1)(b)(ii) of BNSS, 2023 has not been raised by the learned A.G.A. nor any material or circumstances has been shown to the conditions specified therein, then the liberty of the individual stands protected by Article 21 of the Constitution of India read with Section 62 of BNSS, 2023."

ALLAHABAD HIGH COURT • 2024

SOURCE UPHC014816012024

## 17 Baljeet Singh v. State of Punjab

HIGH COURT OF PUNJAB AND HARYANA • 2025-05-20 • CRM-M/22402/2025

The petitioner sought anticipatory bail in connection with a criminal case involving allegations of cheating and conspiracy related to land transactions. It was alleged that the petitioner, along with co-accused, cheated the complainant of money through fraudulent land sale agreements. Although the court initially granted interim protection to facilitate mediation, the mediation process failed, and the petitioner did not honor his undertaking to return the disputed funds. The High Court observed that the investigation is at a preliminary stage and the petitioner's custodial interrogation is necessary for a fair investigation. Consequently, the Court dismissed the petition for anticipatory bail, noting that the seriousness of the allegations and the requirement for custodial interrogation outweighed the petitioner's plea for relief.

**HELD** The High Court rejected the anticipatory bail application under Section 482 of the BNSS, holding that the petitioner's failure to honor his undertaking during failed mediation, combined with the initial stage of the land transaction investigation, made pre-arrest protection inappropriate. The court held that custodial interrogation was necessary to uncover the conspiracy.

"The nature and seriousness of the proposed charges, the context of the events likely to lead to the making of the charges, a reasonable possibility of the applicant's presence not being secured at the trial, a reasonable apprehension that witnesses will be tampered with and \"the larger interests of the public or the state\" are some of the considerations which the court has to keep in mind while deciding an application for anticipatory bail."

HIGH COURT OF PUNJAB AND HARYANA • 2025

SOURCE PHHC010635912025

## 18 Pawan Kumar v. UT of Jammu and Kashmir

HIGH COURT OF JAMMU AND KASHMIR • 2024-10-03 • BAIL APP/150/2024

The petitioner sought bail in a criminal case involving charges under the POCSO Act and the Indian Penal Code, following allegations of rape. The petitioner argued that the DNA analysis report excluded him as the biological father of the child born to the victim, claiming he was falsely implicated due to family rivalries and that the actual perpetrator was another individual. The respondents opposed the bail, highlighting the heinous nature of the offences, the victim's statements, and questioning the reliability of the DNA evidence. The court considered the arguments presented, including the DNA evidence provided by the investigation. Ultimately, the court determined whether the petitioner met the requirements for bail based on the evidence collected by the prosecution and the specific circumstances of the case.

**HELD** The High Court held that the exercise of judicial discretion in bail matters must be grounded on sound legal principles and the specific facts of each case. The court ruled that there is no single litmus test for bail, and that while statutory bars (such as Section 480 BNSS) limit discretion in offenses punishable by death or life imprisonment, the court must weigh individual liberty against the gravity of the charges.

"The grant of bail or the denial of the same falls within the purview of the judicial discretion meant to be exercised on sound legal principles upon the logical interpretation and application of the same in the given facts and circumstances of the case."

HIGH COURT OF JAMMU AND KASHMIR • 2024

SOURCE JKHC020036002024

## 19 Manoj Kumar Soni v. State of Chhattisgarh

HIGH COURT OF CHHATTISGARH • 2025-05-08 • MCRC/2078/2025

The applicant, a government officer, sought regular bail in connection with a criminal case involving alleged corruption and official misconduct during his tenure as Managing Director of a state cooperative marketing federation. The applicant argued for bail based on the completion of the investigation, the filing of the charge sheet, and his period of pre-trial incarceration, citing the fundamental right to a speedy trial and judicial precedents emphasizing that bail is the rule rather than the exception. He further contended that no sanction for prosecution had been granted and that the evidence against him was insufficient. As the document ends during the applicant's plea, the final decision is not contained in the provided text.

**HELD** The High Court noted that Section 479 of the BNSS is a highly beneficial provision that reduces the necessary pre-trial detention for statutory bail eligibility to one-third of the maximum sentence for first-time offenders. The court emphasized that the Supreme Court has confirmed the retrospective applicability of Section 479 BNSS to all pending matters to prevent pre-trial detention from becoming a punishment without trial.

“Under the BNSS, Section 479 has further reduced the period of pre-trial incarceration for eligibility of statutory bail to 1/3rd of the maximum period of imprisonment for first time offenders. Acknowledging this as a beneficial provision, the Apex Court in the matter of Inhuman Conditions in 1382 prisons, Order dated 23.08.2024 in W.P.© No. 406 of 2013, has held that Section 479 BNSS will have retrospective applicability.”

HIGH COURT OF CHHATTISGARH • 2025

SOURCE CGHC010086552025

## 20 Siddharam Satlingappa Mhetre v. State of Maharashtra

SUPREME COURT OF INDIA • 2010-12-02 • 2010 INSC 843

This case concerns the scope of anticipatory bail under Section 438 of the Code of Criminal Procedure. The appellant, accused of instigating a murder, sought anticipatory bail after the High Court rejected his plea. The Supreme Court set aside the High Court's order, emphasizing that Section 438 must be interpreted in light of the fundamental right to personal liberty. The Court held that conditions from Section 437 cannot be read into Section 438, and that anticipatory bail should not be granted for a limited duration only. Courts must balance societal interests against the presumption of innocence, ensuring custodial interrogation is avoided when the accused cooperates with the investigation.

**HELD** The Supreme Court held that limiting the duration of anticipatory bail and forcing the accused to subsequently surrender and apply for regular bail is contrary to legislative intent. The Court ruled that once pre-arrest protection is granted, the benefit should ordinarily continue until the end of the trial, unless curtailed on grounds of abuse of liberty or fresh materials.

“The order granting anticipatory bail for a limited duration and, thereafter, directing the accused to surrender and apply before a regular bail is contrary to the legislative intention and the judgment of the Constitution Bench in Sibbia's case.”

SUPREME COURT OF INDIA • 2010

SOURCE ESCR010003512010

## 21 Sundeep Kumar Bafna v. State of Maharashtra & Anr.

SUPREME COURT OF INDIA • 2014-03-27 • 2014 INSC 218

The case concerns the jurisdictional power of the High Court and Court of Session to grant bail to an accused person who surrenders before them. The High Court had declined to hear the appellant's bail application, suggesting that only a Magistrate had the authority to process the surrender and remand. The Supreme Court clarified that no provision in the Code of Criminal Procedure restricts superior courts from entertaining bail applications once an accused is in 'custody,' which occurs the moment an accused surrenders to the court. Consequently, the Court held that the High Court erred in refusing to hear the matter and directed it to consider the appellant's application for surrender and bail on its merits.

**HELD** The Supreme Court held that High Courts and Courts of Session have concurrent jurisdiction to entertain regular bail applications directly once the accused surrenders physically before them. The Court ruled that physical surrender establishes "custody" under the law, and superior courts cannot refuse to hear the bail plea on its merits by mechanically referring the accused to a Magistrate.

“If, in any case triable by a Magistrate, the trial of a person accused of any non-bailable offence is not concluded within a period of sixty days from the first date fixed for taking evidence in the case, such person shall, if he is in custody during the whole of the said period, be released on bail...”

SUPREME COURT OF INDIA • 2014

SOURCE ESCR010004842014

## 22 Vikash Kumar Kishorbhai Amin v. State of Punjab

HIGH COURT OF PUNJAB AND HARYANA • 2025-07-11 • CRM-M/33250/2025

The petitioner sought anticipatory bail in connection with an FIR alleging his involvement in a fraudulent call center operation targeting foreign customers. The prosecution alleged that the petitioner was a key conspirator and owner who provided instructions to employees to execute scams using fake emails and phone numbers. Investigations revealed substantial incriminating evidence at the company premises, and the petitioner was implicated through the disclosure statements of co-accused. The High Court rejected the bail plea, noting that custodial interrogation was essential given the nature of the cybercrime and the early stage of the investigation. The court emphasized that the petitioner's potential role as a kingpin and his reported involvement in another similar case justified the denial of pre-arrest protection.

**HELD** The High Court rejected the anticipatory bail application under Section 482 of the BNSS, ruling that the petitioner was a key orchestrator of a fraudulent international call center scheme. The court held that given the sophisticated nature of cybercrime, pre-arrest protection must be denied to facilitate effective, qualitative custodial interrogation.

“We find force in the submission of the CBI that custodial interrogation is qualitatively more elicitation oriented than questioning a suspect who is well ensconced with a favorable order under Section 438 of the Code.”

HIGH COURT OF PUNJAB AND HARYANA • 2025

SOURCE PHHC010967062025

## 23 Suresh Kumar v. State of Telangana

HIGH COURT FOR STATE OF TELANGANA • 2017-04-13 • CRLP/2427/2017

The petitioners filed for anticipatory bail under Section 438 of the Criminal Procedure Code regarding allegations of forgery, cheating, and criminal conspiracy. They argued the complaint was a malicious counter-blast to a previous police complaint and lacked prima facie evidence. The State contested the petition, noting that the accused had bypassed the Sessions Court. The High Court, while acknowledging its concurrent jurisdiction to entertain such applications directly, emphasized that the power to grant anticipatory bail is extraordinary and discretionary. The court underscored that judicial discretion in bail matters must be exercised judiciously, weighing factors such as the nature of the accusation, the severity of potential punishment, and the risk of the accused thwarting the course of justice.

**HELD** The High Court held that the discretionary power to grant anticipatory bail under Section 438 must be guided by established legal guidelines and cannot be exercised in an arbitrary, vague, or sentimental manner. The court ruled that pre-arrest bail may only be extended when there is no prima facie material against the accused and no risk of flight.

“Therefore, while dealing with the application for grant of pre-arrest bail or anticipatory bail, the Court must take into consideration the guidelines issued in Gurbaksh Singh Sibbia<sup>1</sup> case.”

HIGH COURT FOR STATE OF TELANGANA • 2017

SOURCE HBHC010077352017

## 24 Kasimkota Kameswara Rao v. State of Andhra Pradesh

HIGH COURT OF ANDHRA PRADESH • 2025-07-09 • CRLP/5166/2025

The petitioner sought anticipatory bail in connection with a criminal case involving charges of dowry harassment, cruelty, and cheating, following a complaint filed by a woman who claimed he entered into a fraudulent marriage while already married. The complainant alleged a long-term relationship, physical abuse, and forced abortions. The petitioner contended that the complaint was filed years after the alleged events and contained only general allegations. The High Court observed significant delays in filing the criminal complaint, noting the complainant had continued her relationship with the petitioner even after learning of his prior

marriage. Emphasizing that bail is the rule and jail the exception, and noting the petitioner was not a flight risk, the court granted him anticipatory bail subject to stringent conditions, including regular appearances before the police and cooperation with the ongoing investigation.

**HELD** The High Court granted anticipatory bail, ruling that because there was a significant, unexplained delay in filing the matrimonial harassment complaint and the accused was a permanent resident posing no flight risk, arrest was not warranted. The court held that arrest must be a last option, restricted only to exceptional cases where incarceration is imperative.

“Arrest should be the last option, and it should be restricted to those exceptional cases where arresting the accused is imperative based on the facts and circumstances of that case.”

HIGH COURT OF ANDHRA PRADESH • 2025

SOURCE APHC010245102025

## 25 Gurbaksh Singh Sibbia v. State of Punjab

SUPREME COURT OF INDIA • 1980-04-09 • 1980 INSC 68

This case clarifies the scope of anticipatory bail under Section 438 of the Code of Criminal Procedure, 1973. The Supreme Court rejected the restrictive interpretation imposed by the Punjab and Haryana High Court, which had sought to limit the exercise of this power through various inflexible conditions. The Supreme Court held that the discretion to grant anticipatory bail is broad and should not be fettered by judicial rules that are not present in the statute. Instead, courts must balance personal liberty against the investigating powers of the police on a case-by-case basis. The Court emphasized that while an anticipatory bail order should not be a 'blanket' protection against all future offenses, it is a necessary tool to protect individual liberty before arrest. The Court ruled that applicants must demonstrate 'reason to believe' they face arrest for specific non-bailable offenses, and while courts can impose conditions, they should not arbitrarily limit the duration of such orders or impose restrictive rules that the legislature did not intend.

**HELD** The Constitution Bench of the Supreme Court held that Section 438 is a vital component of personal liberty under Article 21 and must be interpreted with wide, unfettered discretion. The Court ruled that pre-arrest bail cannot be confined within a "strait-jacket" of judicially manufactured conditions, and that courts must balance individual liberty against the state's legitimate investigative needs on a case-by-case basis.

“Therefore, even if we were to frame a 'Code for the grant of anticipatory bail', which really is the business of the legislature, it can at best furnish broad guide-lines and cannot compel blind adherence. In which case to grant bail and in which to refuse it is, in the very nature of things, a matter of discretion.”

SUPREME COURT OF INDIA • 1980

SOURCE ESCR010002511980

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