

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-46752-2024
Reserved on: 13.11.2024
Pronounced on: 29.11.2024

Rajnish @ Rajneesh Kumar ...Petitioner
Versus
State of Punjab ...Respondent

CORAM: HON'BLE MR. JUSTICE ANOOP CHITKARA

Present: Mr. D.P.S. Randhawa, Advocate for the petitioner.

Mr. Sukhdev Singh, AAG, Punjab.

ANOOP CHITKARA, J.

FIR No.	Dated	Police Station	Sections
122	13.08.2024	City Khanna, District Khanna	61 (2), 235, 242, 246, 318(4), 319(2), 336(3), 337, 338, 340(2) of BNS, 2023

1. The petitioner apprehending arrest in the FIR captioned above has come up before this Court under Section 482 of Bharatiya Nagarik Suraksha Sanhita, 2023, [BNSS], seeking anticipatory bail.

2. In paragraph 17 of the bail petition, the accused declares that the accused has the following criminal antecedents:

Sr. No.	FIR No.	Dated	Offenses	Police Station
1.	145	04.09.2022	392, 419, 342, 395, 170, 171, 411 IPC and Sections 25, 27 of Arms Act	Sadar Khanna

3. The facts and allegations are being taken from the status report filed by the State, which reads as follows:

"3. That the brief facts of the case are that a letter no. 76 dated 24.07.2024 from Mrs. Prabhjol Kaur, JMIC, Khanna was received in Police Station P.S. City-1 Khanna for registration of case against the petitioner, his wife Manju and unnamed persons, the contents of which are as follows, "From Prabhjot Kaur, Judicial Magistrate 1st Class, Khanna. To The SHO, P.S. City-1 Khanna (Through Proper Channel), Subject :- For registration of criminal case against:-1. Rajnish Kumar son of Jagdish Kumar, resident of Ward No. 13, Jain Street, Jira, District Ferozpur. 2. Manju W/o Rajnish Kumar, resident of Ward No.13, Jain Street, Zira, District Ferozpur. 3. Unknown Persons. Memo:- Whereas in case bearing

FIR No.145 dated 04.09.2022 u/s 419, 342, 392, 395, 170, 171, 411 IPC and Section 25, 27 Arms Act, PS Sadar Khanna, the accused Rajnish Kumar son of Jagdish Kumar was ordered to be released on bail, on furnishing of personal bonds in the sum of Rs.1,00,000/- with two local sureties in the like amount vide order dated 29.11.2022 passed by the court of Sh. Manoj Kumar Ld. Additional Sessions Judge, Ludhiana. Thereafter, on 05.12.2022 the bail bonds and surely bonds were furnished in favour of accused Rajnish Kumar by one person namely Rajwant Singh son of Harchand Singh, resident of Village Kishangarh qua property falling within Khewat No.98/95, khatauni No.14, Khasra No.12, 14, 16, 18 as per jamabandi for the year 2018-19. The said surety was identified by Manju W/o Rajnish Kumar and Daler Singh, S/o Pala Singh, resident of Village Kishangarh. Aadhar Card bearing no. 6504 2656 0849 belonging to the said Rajwant Singh was also placed on record alongwith the Aadhar cards of the identifiers. Resultantly, accused Rajnish Kumar was released from custody. However, an application was moved on 09.02.2023 by Rajwant Singh son of Harchand Singh, resident of Village Mehndipur bearing Aadhar Card No.3476 7241 9121 to the effect that some person impersonating himself to be Rajwant Singh furnished bail bonds and surely bonds on behalf of accused Rajnish Kumar. He submitted that he had never furnished surely bonds for any accused in any court of law. The applicant also filed an affidavit in this regard and produced in the court his original identity proof in the form of his passport, aadhar card, voter card, PAN card, certified copy of jamabandi for the year 2018-19 and bank passbook of HDFC Bank in support of his application. Upon this application, this court issued notices to Manju and Daler Singh and directions were issued to learned counsel for the accused Rajnish Kumar to produce in the court the surety, identifier and witnesses alongwith original documents. Notice issued to witness Daler Singh was received back with the report of Sarpanch that no such person is residing in the village Kishangarh and that his name is also not mentioned in voter list. Thereafter on 01.05.2023, wife of accused Manju appeared in the court and filed an affidavit vide which she stated that the accused was ordered to furnish local surety bonds vide order dated 29.11.2022 passed by the court of Sh. Manoj Kumar. Ld. ADJ Ludhiana, but she cannot arrange sufficient surety for his release. However, she submitted that she met one unknown person namely Surjit Singh outside the court premises who agreed to help her and to procure local surety for her. She accordingly submitted that impersonation if any

person has been committed on the instance of Surjit Singh and she has also the victim of the same. From the above said reports, documents and affidavits, it transpires that accused Rajnish Kumar, his wife Manju and the persons who falsely represented themselves to be Rajwant Singh and Daler Singh in connivance with each other hatched a deep rooted conspiracy to cheat this court by producing impersonated/false sureties and thereby got the accused Rajnish Kumar released from custody in the present criminal and for achieving the above said sinister object, all these persons in connivance with each other prepared false and forged Revenue Record, Aadhar Cards and also furnished false declarations in the shape of affidavits to the court. Directions are hereby issued for registration of case against Rajnish Kumar, Manju W/o Rajnish Kumar and unknown person as prima facie offence of furnishing false declaration, cheating by impersonation, making false documents, forgery of valuable security, forgery for the purpose of cheating and use of forged documents as genuine are made out. You are directed to send compliance report to the Court and to conduct a thorough investigation, Judicial Magistrate Ist Class Khanna."

4. The petitioner's counsel prays for bail by imposing any stringent conditions and contends that further pre-trial incarceration would cause an irreversible injustice to the petitioner and his family.

5. The State's counsel opposes bail and refers to the status report.

6. It would be appropriate to refer to the following portions of the status report, which read as follows:

"5. (i) Role of the petitioner:-

The role of petitioner in the conspiracy as such cannot be ruled out at this stage because he was the ultimate beneficiary. The allegations against the petitioner are grave and serious in nature.

(ii) Evidence against the petitioner :-

There is sufficient evidence against the petitioner in the case file. Moreover, the petitioner is person of criminal nature. Apart from the present FIR, an FIR No. 145 dated 04.09.2022 U/S 392/419/324/411/395/170/171/201 IPC and 25-27/54/59 Arms Act has been registered against the petitioner and others at P.S. Sadar Khanna."

7. Pre-trial incarceration should not be a replica of post-conviction sentencing. The

evidence might be prima facie sufficient to launch prosecution or to frame charges, but this Court is not considering the evidence at that stage but is analyzing it for the stage of anticipatory bail. An analysis of the above does not justify custodial interrogation or pre-trial incarceration.

8. Given the above, the penal provisions invoked coupled with the prima facie analysis of the nature of allegations and the other factors peculiar to this case, there would be no justifiability for custodial interrogation or the pre-trial incarceration at this stage. Without commenting on the case's merits, in the facts and circumstances peculiar to this case, and for the reasons mentioned above, the petitioner makes a case for bail. This order shall come into force from the time it is uploaded on this Court's official webpage.

9. Given above, provided the petitioner is not required in any other case, the petitioner shall be released on anticipatory bail in the FIR captioned above subject to furnishing bonds to the satisfaction of the Arresting Officer, and if the matter is before a Court, then the concerned Court and due to unavailability before any nearest Ilqa Magistrate/duty Magistrate. Before accepting the surety, the concerned Officer/Court must be satisfied that if the accused fails to appear, such surety can produce the accused.

10. While furnishing a personal bond, the petitioner shall mention the following personal identification details:

1.	AADHAR number	
2.	Passport number (If available) and when the attesting officer/court considers it appropriate or considers the accused a flight risk.	
3.	Mobile number (If available)	
4.	E-Mail id (If available)	

11. This order is subject to the petitioner's complying with the following terms.

12. The petitioner is directed to join the investigation within seven days of uploading this order on the official webpage of the High Court of Punjab and Haryana and as and when called by the Investigator. The petitioner shall be in deemed custody for Section 27 of the Indian Evidence Act, 1872/ Section 23 of BSA, 2023. The petitioner shall join the investigation as and when called by the Investigating Officer or any Superior Officer and shall cooperate with the investigation at all further stages as required. In the event of failure to do so, the prosecution will be open to seeking cancellation of the bail. During the investigation, the petitioner shall not be subjected to third-degree, indecent language, inhuman treatment, etc.

13. The petitioner shall abide by all statutory bond conditions and appear before the concerned Court(s) on all dates. The petitioner shall not tamper with the evidence, influence, browbeat, pressurize, induce, threaten, or promise, directly or indirectly, any witnesses, Police officials, or any other person acquainted with the facts and circumstances of the case or dissuade them from disclosing such facts to the Police or the Court.
14. In case the Investigator/Officer-In-Charge of the concerned Police Station arraigns another section of any penal offense in this FIR, and if the new section prescribes a maximum sentence that is not greater than the sections mentioned above, then this bail order shall be deemed to have also been passed for the newly added section(s). However, suppose the newly inserted sections prescribe a sentence exceeding the maximum sentence prescribed in the sections mentioned above; then, in that case, the Investigator/Officer-In-Charge shall give the petitioner notice of a minimum of seven days, providing an opportunity to avail the remedies available in law.
15. This bail is conditional, and the foundational condition is that if the petitioner indulges in any non-bailable offense, the State may file an application for cancellation of this bail before the Sessions Court, which shall be at liberty to cancel this bail.
16. Any observation made hereinabove is neither an expression of opinion on the case's merits nor shall the trial Court advert to these comments.
17. A certified copy of this order would not be needed for furnishing bonds, and any Advocate for the Petitioner can download this order along with case status from the official web page of this Court and attest it to be a true copy. If the attesting officer wants to verify its authenticity, such an officer can also verify its authenticity and may download and use the downloaded copy for attesting bonds.
18. **Petition allowed** in terms mentioned above. All pending applications, if any, stand disposed of.

(ANOOP CHITKARA)
JUDGE

29.11.2024
Jyoti-II

Whether speaking/reasoned:	Yes
Whether reportable:	No.