

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-51628-2024
Reserved on: 12.12.2024
Pronounced on: 19.12.2024

Sant Kumar Goyal ...Petitioner

Versus

State of Haryana ...Respondent

CORAM: HON'BLE MR. JUSTICE ANOOP CHITKARA

Present: Mr. Bipan Ghai, Senior Advocate with
Mr. Nikhil Ghai, Advocate and
Mr. Nikhil Thamman, Advocate,
for the petitioner.

Mr. Aashish Bishnoi, D.A.G., Haryana.

Dr. Anmol Rattan Sidhu, Senior Advocate with
Mr. Kanishk Swaroop, Advocate
for the complainant.

ANOOP CHITKARA, J.

FIR No.	Dated	Police Station	Sections
296	28.08.2024	Civil Line Jind, Distt. Jind	406, 409, 420, 506, 120-B IPC

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 19 of the bail petition, the accused declares that he has no criminal antecedents.
3. The facts and allegations are being taken from the status report filed by the State, which reads as follows:

“2. That the brief facts of the case are that the present case bearing FIR No.296 dated 28.08.2024 u/s 406, 420, 506 IPC was registered at Police Station Civil Lines, Jind was registered on the complaint of Smt. Meena Goyal, wife of Sant Kumar, resident of Dhuri, District Sangrur (Punjab). A complaint No.4934-P dated 23.08.2024 was received from S.P. Office, Jind through post in the Police Station against Saloni Goyal, employee of HDFC

Bank, Jind and Mohit Goyal etc. for playing fraud and duping them for crores of rupees. It is alleged in the complaint that he and his wife are maintaining account No. 50200062xxxxx Primary Account Holder Rajinder Singh, Account No. 50200062xxxxx Primary Account Holder Rajinder Singh, Account No. 50200062xxxxx Primary Account Holder Rajinder Singh, Account No. 5020007xxxxx Primary Account Holder Prem Chaudhary, Account No.5010047xxxxx Primary Account Holder Rajinder Singh, Account No.5010059xxxxx Primary Account Holder Prem Chaudhary, Account No. 5020007xxxxx Primary Account Holder Rajinder Singh Account No. 50100605xxxxx Primary Account Holder Rajinder Singh, Account No. 5020007xxxxx Primary Account Holder Rajinder Singh, Account No. 5020007xxxxx Primary Account Holder Rajinder Singh, Account No.5020009xxxxx Primary Account Holder Rajinder Singh and Account No. 5010073xxxxx Primary Account Holder Rajinder Singh with HDFC Bank near HUDA Market, in front of S.P. Kothi, Jind out of whom some are their joint accounts. Accused Saloni Goyal was their relationship Bank Manager. Some days ago, officials of HDFC Bank came to him and told that installments of his agricultural loan are due whereupon they replied that they have only get the loan sanctioned, they have not withdrawn the amount of loan. They further told him that as per their record complete payment has been made to them. Accused Saloni Goyal alongwith her husband were residing in their house as a tenant and they were treating them as their family members. Believing upon them, they handed over their passbooks, cheque books etc. and taking advantage of their belief, they (accused) had transferred Rs. 9 crores in their accounts or in the accounts of their relatives. Some other persons namely Mohit Goyal, Kapil Goyal, Kaplesh Kumar, Meena Goyal, Sant Kumar Goyal, Sanjeev Goyal, Rahul, David Saini, Ashes Rastogi, Gagan, Vijay Nayyar, Mahesh and Ramesh are also conspired with said Saloni Goyal.”

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. The complainant’s counsel does not oppose the bail subject to the rider that this bail shall not be a precedent or ground for the remaining accused.

7. On 25 October 20024, the petitioner handed over Rs 3.5 lacs by Demand Draft to the complaint, which was observed in the Court's interim order.

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

"12. That regarding complicity of the petitioner is concerned, it is submitted that the allegations against the petitioner-accused are serious in nature. Initially, on 26.08.2024, at the time of preliminary enquiry of the complaint the accused Saloni Goyal was joined in the enquiry and she made statement that out of the cheated amount of Rs. 9 Crore approx, she had sent money in the bank accounts of various persons, which includes her husband, brother, mother and uncle Sanjeev Kumar etc. As per account statement, annexure P-2, of the petitioner-accused, on 23.11.2022, a sum of Rs. 15,00,000/- has been transferred in the bank account of the petitioner- accused by the accused Saloni Goyal. The petitioner-accused had extended threats to the complainant and his wife if they will take any action the main accused Saloni Goyal. Keeping in view the nature and gravity of the offence as well as the fact that the main accused Saloni Goyal is the daughter of the petitioner-accused and she is yet to be arrested and the petitioner-accused is not disclosing her whereabouts, it would not be in the interest of justice to grant concession of anticipatory bail to the petitioner-accused. After arrest of the main accused Saloni Goyal only it shall be clear that how much amount has been transferred in favour of the petitioner-accused and in which of his accounts. The custodial interrogation of the petitioner-accused is required for unearthing the true facts and recovery of money transferred in the account of the petitioner by the accused Saloni Goyal. Without custodial interrogation of the petitioner-accused, the investigation cannot be conducted effectively."

9. 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.

10. Given the above, the penal provisions invoked coupled with the prima facie analysis of the nature of allegations, no objection of the complainant 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.

11. Considering the peculiar situation, the petitioner's bail shall not be treated as a precedent for granting bail to the other co-accused.

12. 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.

13. 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)	

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

15. The petitioner is directed to join the investigation 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.

16. 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.

17. 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.

18. 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.

19. Any observation made hereinabove is neither an expression of opinion on the case's merits nor shall the trial Court advert to these comments.

20. 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.

21. **Petition allowed** in terms mentioned above. All pending applications, if any, stand disposed of.

(ANOOP CHITKARA)
JUDGE

19.12.2024

Jyoti-II

Whether speaking/reasoned: Yes

Whether reportable: No.