

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-1611-2025
Reserved on: 17.02.2025
Pronounced on: 28.02.2025

Rohtash Singh ...Petitioner

Versus

State of Haryana and another ...Respondents

CORAM: HON'BLE MR. JUSTICE ANOOP CHITKARA

Present: Mr. Pankaj Bali, Advocate for the petitioner.

Mr. Aashish Bishnoi, DAG, Haryana.

Mr. Manvender Chauhan, Advocate for respondent No.2.

ANOOP CHITKARA, J.

FIR No.	Dated	Police Station	Sections
485	05.11.2024	Nissing, Distt. Karnal	420, 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 9 of the bail petition, the accused declares that he has no criminal antecedents.
3. The facts of the case are being taken from the translated copy of FIR annexed with the bail petition as Annexure P-1, which reads as follows:

“xxx To the Respected S.P. Sahab Ji, Karnal. Subject:- Application for taking legal action against accused No.1, Radha Devi Widow of Pasi Ram, 2. Janu (Mobile Number 99960-xxxxx), 3-Gaurav, Sons of Late Pasi Ram son of Sh. Sube Singh and 4.Shekhar, 5.Sagar (Mobile Number 99966-xxxxx), Sons of Shamsher Singh son of Sh. Sube Singh, residents of Village Ongad, Police Station Nissing, District Karnal and 6.Halqa Patwari Lakhan Pal (Mobile Number: 98139-xxxxx) and Retired Patwari Rohtash (Mobile Number:98966-xxxxx) and 7.H.D.F.C. Bank Manager Branch Nissing Sh. Kapish (Mobile No: 93153-xxxxx for committing fraud with the applicant in connivance with officers/officials. Sir, the applicant prays as under: 1.That

the applicant, Amir Singh son of Sh. Piara Singh, is resident of Village Budhanpur Veeran District Karnal and has faith in law. 2. That all the above said accused No. 1 to 5 are owners in possession of land measuring 37 Kanal 18 Marlas in Village Ongad, Tehsil and District Karnal and they got one agreement to sell prepared to sell the above said land for a sum of Rs. 1 Crore 37 Lacs 65 Thousands and the applicant purchased their land 37 Kanal 18 11 Marlas by giving the above said amount to the above said accused No.1 to 5 according to Waseeka No: 2609/1 Dated 13.06.2024 and the accused No. 1 to 4 told the applicant that out of the above said land measuring 37 Kanal 18 Marlas, the land of our share is kept under mortgage with Indian Bank, Nissing for a sum of Rs. 18 Lacs 50 Thousands and the accused No. 4 and 5 told that the land of our share out of the land measuring 37 Kanal 18 Marlas is also kept under mortgage with the above said bank for a sum of Rs. 18 Lacs 50 Thousands and the accused No. 1 to 5 got the loan cancelled by depositing the money in the bank out of the amount of the earnest money given in lieu of the land purchased by me and the above said accused No.1 to 5 gave assurance to me that except this, no other land of ourselves is kept under mortgage in any other bank and said that in spite of this, if any loan against this land is found, then the responsibility of making the payment of the same will be of ourselves. But, the above said accused No.1 to 5 had taken loan of Rs. 17 Lacs 10 Thousands against the above said land from H.D.F.C. Bank and in lieu of this, they had kept land measuring 59 Kanal under mortgage and out of this, the land measuring 37 Kanal 18 Marlas, sold to the applicant, was also included. That the accused No. 1 to 5, in connivance with accused No. 6 and 7 did not get the above said loan to be entered in Jamabandi and relying on the accused No. 1 to 5, I got the registry executed of the land measuring 37 Kanal 18 Marlas by giving the settled amount. But, even after 10 days of the execution of the registry, officers of the bank and the accused No. 1 to 5 got the above said mortgage entered in the jamabandi by giving an application to the Tehsildar, Karnal and got the intqal stopped to entered in our favour. It is worth mentioning that the above said land has been kept under mortgage from dated 31.08.2012 in favour of the H.D.F.C. Bank, but the accused No. 1 to 5, with the help of the accused No. 6 and 7 did not get the same to be entered in the intqal and as soon as the registry of the above said land measuring 37 Kanal 18 Marlas was executed in our favour, then they got the mortgage entered in the Jamabandi after 12 years. From this, it seems that from the start itself,

the intention of the accused No. 1 to 5 was to commit fraud and in addition to this, the accused No. 6 and 7 are fully involved in this and the accused persons, in spite of having knowledge that the above said land is kept under mortgage with the H.D.F.C. Bank in lieu of the sum of Rs. 17 Lacs 10 Thousands, but, they have made an agreement to sell with me with the intention to commit fraud and all the accused persons usurped the amount by committing fraud with the applicant. When the applicant requested to the above said accused No. 1 to 5 to deposit the amount of loan in the bank, then they flatly refused and said that after today, if you asked us to deposit the amount, then we will kill you. Therefore, it is prayed to your goodself that keeping the above said facts in view, strict legal action may be taken against the above said accused persons and my life and property may be protected. Thanking you very much. Dated 06.08.2024. Sd/-in Punjabi, Applicant: Amir Singh son of Para Singh, resident of Village Budhanpur Veeran, District Karnal.”

4. The petitioner's counsel prays for bail by imposing any stringent conditions and contends that 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:

“8. That the role of the petitioner in this case is quite specific. The petitioner being a public servant and was posted as Patwari on 18.06.2017 in the revenue estate of the property in question and therefore, entry was created by him. As per the Roznamcha entry No. 477 made in Jamabandi for the year 2014-15 prima-facie reflects clearance of loan from HDFC Bank. As per the record of Rapat No.477 does not belong to the property in question. Therefore, his custodial interrogation is required to find the truth, mode and manner of commission of offence and involvement of any other persons.”

7. Counsel for the complainant also opposes the bail.

REASONING:

8. 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.

9. 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.

10. The investigation indicates that the petitioner is not the main accused, so the petitioner's bail shall not be treated as a precedent for granting bail to the other co-accused with a higher role.

11. 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.

12. 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)	

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

14. 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.

15. 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.
16. 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.
17. 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.
18. The concerned trial court is authorized to delete, modify, or relax any of the above conditions and shall be competent to do so in accordance with the law.
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

28.02.2025

Jyoti-II

Whether speaking/reasoned: Yes
Whether reportable: No.