

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-37576-2024
Reserved on: 13.01.2025
Pronounced on: 30.01.2025

Goldy Walia @ Janak Singh ...Petitioner

Versus

State of Punjab ...Respondent

CORAM: HON'BLE MR. JUSTICE ANOOP CHITKARA

Present: Mr. Rehat Bir Singh Mann, Advocate
for the petitioner.

Mr. Sukhdev Singh, A.A.G, Punjab.

Ms. Kritima Sareen, Advocate and
Mr. Pratham Sethi, Advocate
for the complainant.

ANOOP CHITKARA, J.

FIR No.	Dated	Police Station	Sections
77	02.06.2023	Sarabha Nagar, District Police Commissionerate Ludhiana	408, 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 17 of the bail petition, the accused declares that he has no criminal antecedents.
3. The facts and allegations are being taken from the reply filed by the State, which reads as follows:

“3. xxxxx It was alleged by the complainant that he runs a company under the name and style of M/s. B.S. Steel which is engaged in the business of import Machinery and Scrap. One Amarjit Singh Bhatti was the Accountant in the said company of the complainant since the year 2008. The complainant resides at America and he came to India in the year 2022 when the said Accountant Amarjit Singh Bhatti told the complainant that he has done business deal (Purchase) with various companies/firms and that for making refund payments of GST to those companies/firms,

Amarjit Singh Bhatti got signed Cheques from the complainant.

It was further alleged that the said Amarjit Singh Bhatti had shown one Purchase Invoice of Rs.1.00 Crore to the complainant of one firm M/s. Luthra and Company for which the complainant paid GST of Rs.18,00,020/- through RTGs in the name of said Luthra and Company. However, thereafter the said Luthra and Company moved a complaint to the police that their Agents i.e. the present petitioner and others have prepared its fake invoices in the name of the complainant's company. During the enquiry in the said complaint by the police, it was revealed that the said amount of Rs.18,00,020/- was firstly got deposited from the complainant in the name of Luthra and Company and thereafter the said amount was got deposited fraudulently by the present petitioner and Munish Kumar in the bank account of some other firm namely Krishna Enterprises-Mandi Gobindgarh and within two hours the same was withdrawn. However, on pressuring the bank i.e. Yes Bank, the said money was deposited by Yes Bank in the complainant's bank account.

It was further alleged that thereafter the complainant checked his record during which it was revealed that total GST of Rs.1,19,35,880/- has been got deposited from the complainant's firm through RTGs on the basis of fake invoices. Even payments were not deposited in the names of the firms whose fake invoices were prepared and rather the payments were got deposited in some other bank accounts. It was further alleged that the said Amarjit Singh Bhatti in connivance with his accomplices and also the bank officials, got deposited a total amount of Rs.1,19,35,880/- from the complainant on the basis of fake invoices and thereafter withdrawn the same within two hours."

4. The petitioner's counsel submits that no money was received by the petitioner(s) either into their respective accounts or by any other mode. The entire allegations levelled by the complainant are against his accountant/co-accused Amarjot Singh Bhatti who is absconding. He submits that out of the disputed amount of Rs. 1,19,35,890/-, more than two-third amount i.e. Rs.80,00,000/- has been returned to the complainant. He submits the Investigating Agency cannot assume the role of a recovery agent. He relied upon the judgments in the cases of **Lalit Chaturvedi v. State of Uttar Pradesh, 2024(2) RCR (Criminal) 73** and **Bimla Tiwari v. State of Bihar, 2023(1) RCR (Criminal) 773**. He submits that subsequent to receiving money during the course of inquiry, the complainant compromised the matter with the petitioners. Now, since the complainant cannot get hold of his accountant/co-accused Amarjot Singh Bhatti, he has backtracked

on his compromise so as to make the petitioners hostage. He further submits that the petitioners have no concern with the complainant. The very basis of the nomination of the petitioners in the present case is one complaint given by a firm Luthra & Co.' to Kapurthala Police claiming that the petitioners were their employees and they were generating fake bills in the firm's company. It is pertinent to mention herein that no action has been taken on the said complaint by the Kapurthala Police i.e. no merit was found in the complaint. He submits that in para No. 4 of the reply filed by the State, the only role attributed to the petitioners is that they were employees of "M/s Luthra & Co." and they prepared fake invoices and received an amount of Rs.18,00,020/-. It is pertinent to mention herein that even if the said allegations are believed to be true, the said amount stands deposited back into complainant's account and the said fact has also come in State's reply itself (Page No. 5). He further submits that the present case is covered by the law laid down by the Hon'ble Supreme Court in **Arnesh Kumar v. State of Bihar, 2014 RCR (Criminal) 527** as well as notification no. 159 Gaz. II (17) dated 22.09.2023 issued by this Hon'ble Court. He further submits that in para No. 5 of State's reply, it is contended that number of phone calls were exchanged between the accused persons which has come in call detail records. He further argued that it is held in catena of judgments that mere call detail records sans transcript of conversation between co-accused is not corroborative without substantive material against accused. Lastly, with regard to the reply filed by complainant, the petitioner has no concern with M/s Navpreet Enterprise.

5. 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 their family.

6. The State as well as counsel for the complainant opposes bail and refers to the status report. He has drawn attention of this Court to paras 4 to 6 of the status report, which reads as follows:

"4. That preliminary enquiry on the above noted application of the complainant was conducted by the ACP-PBI, Economics and Cyber Offences, Ludhiana during which the above noted allegations of the complainant were established and it was revealed that the present petitioner and Munish Kumar were the agents of one M/s Luthra and Company-Phagwara and they in connivance with said Amarjit Singh Bhatti prepared fake invoices of the said M/s. Luthra and Company amounting to Rs.1.00 Crore and thereafter got refunded an amount of Rs.18,00,020/- under the pretext of GST refund from the complainant's firm in the name of Luthra and Company and thereafter the said amount was got deposited

from the bank in the bank account of some other firm namely Krishna Enterprises-Mandi Gobindgarh and within two hours the same was withdrawn. However, the bank was also at fault and on pressuring the bank i.e. Yes Bank, the said money was deposited by Yes Bank in the complainant's bank account. The said fake invoices of said M/s. Luthra and Company prepared by the petitioner and Munish Kumar in the name of complainant's firm, were also taken into possession.

It was further revealed that the above said Amarjit Singh Bhatti in connivance with his other accomplices got deposited a total amount of Rs.1,19,35,880/- as GST refund from the complainant on the basis of fake invoices and thereafter withdrawn the same. Fake invoices were raised in the names of M/s. Nitin Trading Co., Luthra and company, Navpreet Enterprises, Prabhdoyal Enterprises, Ram Enterprises and Shiv Traders. However, GST amounts were got deposited in the bank accounts of M/s. P.K. Enterprises, Navpreet Enterprises, V.K. Trading Co., Aadi Shakti Jewellers and Satkar Enterprises. Some of the firms had deposited a total amount of Rs.80.00 Lac in the bank account of the complainant when the complainant had moved the complaint to the police but the remaining amount of Rs.39,35,880/- has not been deposited with the complainant's firm.

ROLE OF THE PETITIONER:

The present petitioner and Munish Kumar were the Agents of above noted firm M/s. Luthra and Company, Phagwara and they in connivance with said Amarjit Singh Bhatti-Accountant of the complainant, had prepared fake invoices of Rs.1.00 Crore of their said firm M/s. Luthra and Company-Phagwara and thereafter received payment of Rs.18,00,020/- as GST refund from the complainant on the basis of fake invoices and thereafter got deposited the said GST amount of Rs.18,00,020/- in bank account of one other firm namely Krishna Enterprises, Mandi Gobindgarh and after two hours withdrawn the said money. The petitioner was also conniving with other account holders in whose accounts the GST amount was deposited on the basis of fake invoices.

The above noted enquiry report of the ACP was further examined and verified by the ADCP-HQ, Ludhiana and finally the same was approved as well by the Commissioner of Police, Ludhiana. Accordingly FIR No.77 dated 02.06.2023, u/s 408, 420, 120-B IPC P.S. Sarabha Nagar, Ludhiana (Annexure P-1) was registered against the petitioner and his co-accused Amarjit Singh Bhatti, Munish Kumar, Janak Singh, Pardeep Kumar (owner

of fake firm P.K. Enterprises), Navpreet Singh (owner of firm Navpreet Enterprises), Vikram Singh (owner of firm V.K. Trading Company), Gursewak Singh (owner of firm Adi Shakti Jewellers) and Joginder Singh alias Akash (owner of firm Satkar Enterprises.

5. That during the investigation, the above noted fake invoices of M/s. Luthra and Company-Phagwara, prepared by the petitioner, were taken into possession by the Investigating Officer. Statement u/s 161 Cr.P.C of the complainant was recorded on 03.06.2024 in which the complainant has levelled specific allegations against the petitioner that the petitioner in connivance with his Accountant Amarjit Singh Bhatti has prepared fake invoices and got deposited amount in fake bank accounts. As fake documents were prepared by the petitioner and his co-accused, therefore offences u/s 467, 468, 471 IPC have also been added in this case.

6. That thus the petitioner, who was the Agent of firm M/s Luthra and Company, Phagwara, prepared its fake invoice of Rs.1.00 crore in connivance with his co-accused and thereby got deposited GST payment of Rs.18,00,020/- from the complainant and thereafter fraudulently got it deposited in the bank account of one Krishna Enterprises -Mandi Gobindgarh and withdrawn the same within two hours. Therefore, the petitioner is not entitled for the concession of anticipatory bail which is an extra ordinary relief and the same is granted only in exceptional cases.”

7. State counsel submits that there is evidence of call record and the petitioner created 6-7 fake forms and custodial interrogation is required to unearth the scam and to find out the modus-operandi and to recover the ill-gotten money.

8. Analyzing the pleadings as well as the status report filed by the State clearly prima facie indicts the petitioner in connivance with Munish Pal @ Munish Kumar and other co-accused have prepared the fake invoices of Rs.1 crore and then thereby fraudulently transferring money in their own the accounts which was not entitled to them. It is not a case of simple mis-appropriation but of cheating and thuggee. Thus, given the nature of allegations, the petitioner is not entitled to bail. The parameters for anticipatory bail are entirely different from the regular bail.

9. A perusal of the bail petition and the documents attached primafacie points towards the petitioner’s involvement and does not make out a case for anticipatory bail. The impact of crime would also not justify anticipatory bail. Any further discussions will likely prejudice the petitioner; this court refrains from doing so.

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

11. **Petition dismissed.** Interim orders, if any, are recalled with immediate effect. All pending applications, if any, are disposed of.

(ANOOP CHITKARA)
JUDGE

30.01.2025
Jyoti-II

Whether speaking/reasoned:	Yes
Whether reportable:	No.