

CRM-M-52610-2024

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRM-M-52610-2024
Reserved on: 06.02.2025
Pronounced on: 14.02.2025

Kaludin ...Petitioner
Versus
State of Punjab ...Respondent

CORAM: HON'BLE MR. JUSTICE ANOOP CHITKARA

Present: Mr. Manoj K. Sharma, Advocate for the petitioner.
Mr. Jasjit Singh, DAG, Punjab.

ANOOP CHITKARA, J.

FIR No.	Dated	Police Station	Sections
132	19.07.2024	Sadar Hoshiarpur, Punjab	61(2), 216, 318(4), 336(3), 337, 340(2), 339 of BNS 2023

1. The petitioner incarcerated in the FIR captioned above came before this Court under Section 483 of Bharatiya Nagarik Suraksha Sanhita, 2023, [BNSS], seeking regular bail.
2. In paragraph 9 of the bail petition, the accused declares that he has no criminal antecedents, however, as per paragraph 6 of the status report, the accused has the following criminal antecedents:

Sr. No.	FIR No.	Date	Offenses	Police Station
1	93	03.05.2021	323, 324, 354, 326, 34 IPC	Model Town, Hoshiarpur
2	299	18.11.2022	21/61/85 of NDPS Act	Model Town, Hoshiarpur

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

“That it is submitted that FIR No.132 dated 19.07.2024, under Section 61(2), 216, 318(4), 336(3), 337, 340(2), 339 of Bharatiya Nagarik Suraksha Sanhita, 2023, was registered at Police Station Sadar, Hoshiarpur, against petitioner Kaludin, Yashpal, Vipin Kumar, and Amrik Singh on the basis of direction issued vide letter No.794 dated 19.07.2024 by the Chief Judicial Magistrate, Hoshiarpur that in case FIR No.65 dated 26.04.2020, under Section 460, 148, 149, 302, 411, 34 of Indian Penal Code, Police Station Bullowal, Hoshiarpur, an application was moved for

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confirmation of order dated 02.07.2024 of the Hon'ble High Court and to accept the bail bonds of accused Surinder Singh alias Sunny. The Hon'ble High Court had ordered to release accused Surinder Singh alias Sunny on record bail subject to his furnishing personal bond with two sureties of the like amount and one surety shall be resident of District Hoshiarpur to the satisfaction of the Chief Judicial Magistrate/Duty Magistrate. The order was verified and the accused Surinder Singh @ Sunny was directed to furnish bail bonds in the sum of One Lakh with two sureties including one surety residing at Hoshiarpur alongwith affidavit of the accused mentioning conditions detailed in the bail order. Accordingly, two surety bonds were furnished by Yashpal and Vipin Kumar. They were identified by petitioner-Kaludin and Lambardar Amrik Singh. Alongwith surety bonds of Yashpal, Jamabandi for the year 2022-23 of village Bhangala was filed. In both the surety bonds there were valuation applications addressed to the Tehsildar, Mukerian. But the same did not bear signatures of the applicant. Due to doubtful nature of the documents, the Reader of the Court upon direction by the Learned Magistrate verified the genuineness of the documents from Tehsildar Mukerian. He submitted report that signature and stamp of Tehsildar Mukerian is not genuine as has been verified from Sh.Amritvir Singh, Tehsildar, Mukerian. Upon issuance of a direction, the Tehsildar Mukerian appeared in the court and after going through the valuation application and identity card of Lambardar Amrik Singh, he made statement that his signature as well as stamp of the Tehsildar on the valuation letter and identity card of the Lambardar are forged and fabricated. By submitting surety bonds, Vipin Kumar and Yashpal who were identified and attested by Amrik Singh Lambardar and Kaludin entered into criminal conspiracy to get Surinder Singh alias Sunny released from custody on the basis of forged and fabricated documents which were produced in judicial proceedings. Thereupon, direction was issued for registration of the FIR.”

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 their family.

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

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

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“That it is submitted that the bail bonds were furnished alongwith forged and fabricated documents of co-accused Vipin Kumar and Yashpal to get accused Surinder Singh alias Sunny released from custody in a case under Section 460, 148, 149, 302, 411, 34 of Indian Penal Code, Police Station Bullowal, Hoshiarpur and as per order dated 02.07.2024 of the Hon'ble High Court granting bail to him on his furnishing personal bond with two sureties in the like amount out of which, one was required to be resident of District Hoshiarpur. The petitioner alongwith his co-accused Lambardar Amrik Singh had attested/identified the abovesaid sureties Vipin Kumar and Yashpal. The petitioner is guilty of committing the offences of the present case after entering into criminal conspiracy to get accused Surinder Singh alias Sunny released on bail on the basis of forged and fabricated documents in a serious offence and that too in violation of order of the Hon'ble High Court. The petitioner was arrested at the spot. Therefore, it is wrong to suggest that the petitioner has committed the crime in question without any intent or mens-rea, as such the present petition is liable to be dismissed.”

REASONING:

7. There is sufficient prima facie evidence connecting the petitioner with the alleged crime. However, pre-trial incarceration should not be a replica of post-conviction sentencing.

8. Per paragraph 6 of the bail petition, the petitioner has been in custody since 19.07.2024. As per the custody certificate dated 05.02.2025, the petitioner's total custody in this FIR is 06 months & 12 days.

9. Given the penal provisions invoked viz-a-viz pre-trial custody, 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 further pre-trial incarceration at this stage.

10. 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.

11. Given above, provided the petitioner is not required in any other case, the petitioner shall be released on bail in the FIR captioned above subject to furnishing bonds to the satisfaction of the concerned Court and due to unavailability before any nearest Ilaka Magistrate/duty Magistrate. Before accepting the surety, the concerned

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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. 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. **This bail is conditional, and the foundational condition is that if the petitioner indulges in any non-bailable offense, the State shall file an application for cancellation of this bail before the Sessions Court, which shall have the liberty to cancel this bail.**

15. 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.

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

14.02.2025
Jyoti-II

Whether speaking/reasoned: Yes
Whether reportable: No.