**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

**CRM-M-53267-2024
Reserved on: 15.01.2025
Pronounced on: 30.01.2025**

Shubham ...Petitioner

Versus

State of Punjab and another …Respondents

CORAM: HON'BLE MR. JUSTICE ANOOP CHITKARA

Present: Mr. Yogesh Kumar Aneja, Advocate,
for the petitioner.

Mr. Jasjit Singh, DAG, Punjab.

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ANOOP CHITKARA, J.

FIR No.	Dated	Police Station	Sections
02	19.07.2024	Cyber Crime Sri Muktsar Sahib, District Sri Muktsar Sahib	420, 473, 120-B IPC and 66 D of I.T. Act

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 14 of the bail petition, the accused declares that he has no criminal antecedents. However, as per para 7 of the status report, the accused has the following criminal antecedents:

Sr. No.	FIR No.	Dated	Offenses	Police Station
1.	104	18.04.2024	420 IPC	Cyber Crime, Gurugam, Haryana

3. The facts and allegations are being taken from the FIR, which reads as follows:

> *"Statement of Akashdeep Singh son of Sukhjinder Singh, resident of Village ArniwalaWajira, Aadhar No. 217585xxxxxx, age about 23 years, M.No. 98774-xxxxx. It is stated that I am resident of the above said address and at present, I am doing my study of B.Com from D.A.C. College, Abohar. My sister, Prabhpreet Kaur, is permanent resident of Australia country. My passport has been made and my sister, has applied my visitor Visa in Australia. According to condition of visitor visa, I was to show my fund in my bank account and I told about this to my friend,*

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Sandeep Kumar son of Hans Raj, resident of Nagpal Nagri, Malout. He said to me that one Suneel son of Manphul, resident of Village Daba Kokrian, District Fazilka is my friend, who does business of trade and lacs of rupees are available in his bank account and due to this, he has to pay much income tax. If you want, then Sunil will deposit his amount of Rs.7,00,000/- from his account and he will withdraw the same afterwards. Due to this, he will be saved from tax and fund will also be shown in your account. On saying by him, on dated 29.106.2024, firstly for checking, I transferred Rupee one through PAYTM on his Mobile No: 99152-xxxx. Thereafter, through RTGS Number IDFBR52 024062XXXXXX, an amount of Rs. 7,00,000/- was come in my account Number 531501xxxxx in Bank of Baroda Branch, Malout. The above said Sandeep Singh told that my friend, Suneel has deposited the money in your Account and now you go to the bank along with me and give the said money to me after withdrawing the same. My above said friend, Suneel will also come outside of the bank. Upon this, I and Sandeep were gone to the bank, where, Suneel was met us at the outside of the bank. We all the three persons were entered in the bank, where, the above said Sandeep asked me to withdraw Rs.6,95,000/- through cheque. Upon this, I withdrew Rs.6,95,000/- and gave the same to him. As per instructions of Sandeep, I sent Rs. 700/- on his Phone Number 99152-xxxx through PAYTM and gave the remaining amount of Rs. 4300/- in cash to Sandeep, which was already available in my pocket. Thereafter, when we were come outside, then one unknown person, was standing bringing one Fortuner Car of white colour. On saying by Sandeep, we, three persons, were sat in the said vehicle. After sometime, they got me come down from the car. Thereafter, we, all, were gone from there. On dated 07-07-2024, when my father deposited Rs.1200/- in my Account, then, my Account was come in minus. When we HAN 13:46 were gone to the bank and then we were come to know that Comy Account has been declared LIEN by the Bank. Thereafter, after inquiry, I have come to know that the above said Sandeep and Suneel have made a gang, in connivance with Vicky son of Satish Munjal, resident of Jandiala Chowk, Camp Mohalla, Malout and 5-6 other unknown persons and the head of it is Monti son of unknown, who is a resident of a village in District Fazilka and by preparing a forged mobile app in the name of one LLFL Securities Stock market in the name of share market, cheating is committed by them with people. My making me prey of this cheating, they got Rs.7,00,000/- of cheating, deposited in my

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> *Account. They have trapped many innocent people in fraud, have committing fraud with their hard-earning. Legal action may be taken against all the above said persons. I have recorded my statement before you, Cread and it is correct. xxx xxx"*

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:

> *"4.* ***Role of the petitioner*** *- Petitioner and co-accused after hatching a criminal conspiracy, are cheating innocent persons by preparing a fake App. The accused fraudulently got transferred the amount of Rs.7.00 lakhs in the bank account of the complainant and then the petitioner alongwith co-accused cleverly took the said amount from the complainant - i.e. by getting withdrawn Rs.6,95,000/- from the bank account through cheque through the complainant, Rs.700 through Paytm and Rs.4300/- in cash. Petitioner actively participated in the commission of crime.*
>
> *5.* ***Evidence against the petitioner*** *- The petitioner is also actively participating in illegal activities with the co-accused.*
>
> *Custodial interrogation of the petitioner is required to investigate the case effectively and to find out the modus operandi of the whole operation and commission of the crime."*

7. The name of petitioner has not been named as an accused in the FIR. The evidence against the petitioner is on much lower footing than the other accused, on this ground alone it is not a case for custodial interrogation or pre-trial incarceration.

8. The evidence collected against the petitioner 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 primafacie 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

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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.

10. 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 Ilaqa 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.

11. 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)	

12. This order is subject to the petitioner’s complying with the following terms.

13. *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.

14. 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.

15. 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

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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.

16. 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.

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

18. 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.

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

(ANOOP CHITKARA)
JUDGE

30.01.2025
Jyoti-II

Whether speaking/reasoned: Yes
Whether reportable: No.

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