

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-55327-2024
Reserved on: 15.01.2025
Pronounced on: 17.01.2025

Akshit Kumar @ Kato ...Petitioner

Versus

State of Punjab ...Respondent

CORAM: HON'BLE MR. JUSTICE ANOOP CHITKARA

Present: Mr. Manbir Singh Batth, Advocate
for the petitioner.

Mr. Jasjit Singh, DAG, Punjab.

ANOOP CHITKARA, J.

FIR No.	Dated	Police Station	Sections
113	19.09.2024	Sadar Nawanshahr, District SBS Nagar	419, 420, 465, 467, 468, 471, 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 11 of the bail petition, the accused declares the following criminal antecedents:

Sr. No.	FIR No.	Date	Offenses	Police Station
1	0084	15.12.2023	420 IPC	City Banga, District SBS Nagar

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

“That it is respectfully submitted that the brief facts of the present case are that the instant case/FIR has been registered against the petitioner- Akshit Kumar @ Kato as well as other unknown persons vide letter No.445, dated 03.09.2024 sent by the Court of Ms. Komple Dhanjal, 1.d. JMIC, SBS Nagar wherein it has been stated that remand papers titled State of Punjab Vs. Sunil Dutt and other in case/ FIR No.84 of 2023 was pending before that Court. Both the accused including present petitioner absented themselves and non- bailable warrants were issued along with

notice to their sureties. As per record, one Mohan Singh son of Nathu, resident of Village Akalgarh had furnished surety bonds for accused Akshit Kumar (present petitioner) on 06.05.2024. The said Mohan Singh had affixed his photo on the surety bonds and was duly identified by Ajit Singh, Nambardar of Village Akalgarh. In pursuance of notice issued against surety Mohan Singh, one Mohan Singh came present in the Court and stated that he never furnished surety bonds for accused Akshit Kumar (petitioner). He even stated that his photograph was not affixed on the surety bonds and he has not sworn any affidavit. Then after enquiring the matter, prima-facie it appears that some person impersonated Mohan Singh and furnished surety bonds on 06.05.2024 in the Court.”

4. Counsel for the petitioner has made the following arguments:

“That there is a defect in the registration of FIR as the basic foundation is incorrect. The police cannot have power to investigate the case U/s 176 of the BNSS, 2023 for the offence booked under IPC and registered under section 154 Cr.P.C. The Division Bench of Hon'ble Allahabad High Court in Crl. Misc. Writ Petition No. 12287 of 2024 titled as 'Deepu and Others V/s State of U.P. and Others' has held that if an FIR is registered on or after 01.07.2024 for the offences committed prior to 01.07.2024, then the said FIR should be registered under the provisions of IPC but the investigation is to be carried as per the procedure provided by the BNSS, 2023 whereas in this case the foundation itself is incorrect.

3. That even the Hon'ble Karnataka High in Criminal Petition No. 200913 of 2024 titled 'Arun Kumar V/s State of Karnataka and Others' has quashed the FIR which was registered U/s 154 Cr.P.C. after the commencement of the BNSS, 2023.

4. That apart from the above it is submitted that in the case in hand, the petitioner was lodged at Central Jail, Ludhiana when his bail bonds were furnished in FIR No. 84 dated 15.12.2023. The petitioner has no role in the case in hand for arranging the surety bonds at the time of his bail in the said FIR. The police authorities rather than investigating the matter thoroughly have registered FIR No. 0113 against the petitioner without any basis. No proper investigation was conducted as observed by the Ld. JMIC, SBS Nagar in her letter dated 15.12.2023. There is no impersonation on the part of the petitioner as the allegation levelled against him having no substance in it.

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's counsel opposes bail and refers to the reply.

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

"5. That it is further submitted that during the course of investigation, the statement of the counsel of petitioner representing him in case/FIR No. 84 dated 15.12.2023, registered under Section 420 of IPC, at Police Station City Banga, District SBS Nagar was also recorded, wherein he stated that it was the petitioner and his family members who sent the surety namely Mohan Singh as well as attesting witness namely Ajit Singh Namberdar, residents of village Alkalgarh, Tehsil Phagwara, District Kapurthala to his office for furnishing bail bonds of the present petitioner."

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. 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.

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. 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.

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. 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.

15. 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.

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

17.01.2025
Jyoti-II

Whether speaking/reasoned:	Yes
Whether reportable:	No.