



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

CRM-M-64077-2024
Date of decision: 17.02.2025

...Petitioner

Versus

...Respondent

CORAM: HON'BLE MR. JUSTICE ANOOP CHITKARA

Present: Mr. S.S. Sandhawalia, Advocate
for the petitioner.

Mr. Aadesh Pal Singh, AAG, Punjab.

Mr. D.S. Virk, Advocate,
for the complainant.

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ANOOP CHITKARA, J.

FIR No.	Dated	Police Station	Sections
404	11.11.2024	City Faridkot, Distt. Faridkot	420, 465, 467, 468, 471, 120-B, 506 IPC

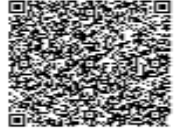
1. The petitioner apprehending arrest in the FIR captioned above has come up before this Court under Section 482 of Bharatiya Nagarik Suraksha Sanhita, 2023, [BNSS], seeking anticipatory bail.

2. As per paragraph 13 of the bail petition and as per paragraph 8 of the status report, the accused has following criminal antecedents:

Sr. No.	FIR No.	Dated	Sections	Police Station
1.	176	29.05.2006	326, 324, 506, 148, 149 IPC	Baghapurana, Distt. Moga
2.	32	19.02.2009	302, 34 IPC	Baghapurana, Distt. Moga
3.	225	16.09.2005	382, 511, 353, 186, 506, 34 IPC	Baghapurana, Distt. Moga

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

"3. That the brief facts of case are that Gursewak Singh (complainant of the case) submitted an application No.965/PGD/24 dated 10.09.2024 to the Senior Superintendent of Police, Faridkot and regarding the allegations mentioned in the said application, a thorough and deep inquiry was conducted by Superintendent of Police (PBI & INV), Faridkot and the facts emerged during inquiry are that, the complainant Gursewak



Singh is the 87 years old person. His eye sight is very low due to old age. After the death of the complainant's father Kashmira Singh in the year 1981, complainant is in possession of about 20 Kila of land belonged to him. In the year of 1998, mutation of the said land was transferred by the Revenue Department to the name of Punjab Government. Whereupon, all the heirs of complainant's father Kashmira Singh filed a petition against the Punjab Government in the Hon'ble High Court and the Hon'ble High Court vide order dated 09.12.2015 set aside the mutation of transfer of ownership in the name of the Punjab Government and transferred in favour of complainant etc. But even after this decision, due to legal issues, mutation of land was not being transferred back to their names, regarding which, complainant has also filed CWP no. 26137 of 2017 in the Hon'ble High Court, which is still pending before the Hon'ble High Court. In the meantime, complainant had acquainted with Gursewak Singh Brar through his Bhanja Gurdial Singh. Gursewak Singh Brar took the complainant into his confidence and gave assurance to the complainant to get the mutation transferred in their names in the record of Revenue Department, as per the orders of the Hon'ble High Court. Gursewak Singh Brar forged the signature of Gurdial Singh (Bhanja of complainant) and purchased an e-stamp paper worth Rs.4000/- in his name, from the Stamp Vendor Raj Kumar Kakkar, Mini Secretariat, Faridkot and by taking advantage of complainant's physical weakness and disability, he got executed a fake agreement to sell pertaining to land of complainant measuring 88 Kanal 09 Marla situated at Village Naraingarh, District Faridkot in his own name as well as in the name of Judge Singh (petitioner) by conniving with Jagga Singh and Gurmej Singh (both witnesses). In the said agreement, it has been mentioned that they have paid Rs. 1,70,00,000/- to the complainant, whereas no such agreement to sell was ever entered into by the complainant. Gursewak Singh Brar and Judge Singh did not turn up to join the inquiry proceedings despite issuance of notices, however, on the other hand, in order to evade legal proceeding with mala fide intention to usurp the land of complainant, they have filed Suit for Permanent Injunction i.e. CS/825/2024 titled as 'Gursewak Singh V/S Gursewak Singh (now complainant)' before the Hon'ble Court of Civil Judge. Faridkot. So, accused Gursewak Singh and Judge Singh in connivance with his two other co-accused have committed cheating with the complainant by taking advantage of complainant's physical weakness and disability, got executed a fake agreement to sell of



land of complainant measuring 88 Kanal 09 Marla situated at Village Naraingarh, District Faridkot in their own names. The Inquiry Officer having found prima facie offence u/s 420, 465, 467, 471, 120-B, 506 IPC to be made out against Gursewak Singh, Judge Singh and Jagga Singh and Gurmej Singh (who witnessed the fake agreement to sell) recommended that if approved, FIR should be registered against the above said persons under the above said offences after seeking legal opinion from Deputy District Attorney (legal). Faridkot. Whereupon, the SSP, Faridkot sought legal opinion and the Deputy District Attorney (legal), Faridkot gave its opinion that, "I have carefully perused the complaint, enquiry report and enclosed statements and documents. According to the conclusion report, the opposite party Gursewak Singh Brar son of Harbans Singh got executed a frivolous agreement to sell on behalf of complainant Gursewak Singh son of Kashmira Singh pertaining to his land measuring 88 Kanal 09 Marla situated at Village Naraingarh in his own name as well as in the name of Judge Singh son of Ajmer Singh in connivance with Jagga Singh son of Major Singh and Gurmej Singh son of Harbans Singh and received the total amount of Rs.1,70,00,000/- by the complainant. But according to conclusion report, complainant has never entered into any such agreement to sell. In lieu of above, opposite party filed a suit for permanent injunction in the Hon'ble Court of Civil Judge, Faridkot and except above, they have not presented their defence during inquiry. According to the decision of the Hon'ble High Court of Madhya Pradesh in case titled as 'Mamta Gupta Vs. State of MP & Anr.' the operative part of the order is as under:- "(9) So far as contention raised by the counsel for the complainant that criminal proceedings are nothing but an attempt to convert the civil proceedings into criminal proceedings is concerned, it is well-established principle of law that a civil proceeding as well as a criminal proceeding may go on simultaneously and no statute puts an embargo in relation thereto. A decision in a criminal case is not binding on the civil court. If primary is given to a criminal proceeding, indisputably, civil suit must be determined on its own keeping in view the evidence which has been produced on record before it and not in terms of the evidence brought in the criminal proceeding. Pendency of civil suit has no relevance in the criminal proceedings, therefore, both civil proceedings and criminal proceedings cannot be quashed only on the ground that the allegations made therein appear to be of a civil nature. If ingredients of offence alleged against the complainant, accused prima facie make out in



complaint/FIR, then the criminal proceeding shall not be interdicted." So, the prima facie offences u/s 420, 465, 467, 468, 471, 120-B, 506 IPC are found to be made out. The SSP, Faridkot approved the said legal opinion and asked the SHO, P.S. City Faridkot, to register the case against the said persons and investigate. Accordingly, the present FIR was registered against Gursewak Singh, Judge Singh and Jagga Singh and Gurmej Singh."

4. Counsel for the petitioner prays bail on the ground that the matter has been compromised. He 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. Counsel for complainant submits that he has no objection, if the present petition is allowed and bail is granted to the petitioner because the matter has been compromised between the parties.

6. State counsel opposes the bail and refers to para 9 of the status report, which reads as follows:

"9. A. ROLE OF THE PETITIONER JUDGE SINGH BRAR

The present FIR was registered against accused/petitioner Judge Singh Brar and his 3 other co-accused, on the basis of application submitted by Gursewak Singh (complainant) and the inquiry conducted by Superintendent of Police, (PBI&INV), Faridkot and approval given by the S.S.P., Faridkot. During investigation, it was duly substantiated that accused/petitioner Judge Singh Brar and his other co-accused have committed fraud with the complainant by taking advantage of complainant's physical weakness and disability, got executed a fake agreement to sell of land of complainant measuring 88 Kanal 09 Marla situated at Village Naraingarh, District Faridkot, in the name of Gursewak Singh Brar and Judge Singh Brar (now petitioner) and mention that an amount of Rs. 1,70,00,000/- has been paid as earnest money. Whereas, the complainant had never executed any agreement to sell of his land, nor received any amount, rather the petitioner in connivance with his other co-accused have committed cheating with the complainant by preparing and using forged documents. So, a specific role is attributed to the petitioner in the commission of present offence.

B. PRIMA FACIE EVIDENCE AGAINST THE PRESENT PETITIONER.

i) The present FIR was registered against accused/petitioner Judge Singh Brar by name and his 3 other co-accused.



ii) Gurdial Singh has clearly stated in his statement under section 161 Cr.P.C. that he has never purchased any e-stamp paper nor has he signed on any register, rather the e-stamp paper purchased is shown in his name, actually this e-stamp paper has been purchased by Gursevak Singh son of Harbans Singh but he does not know when and from whom Gursevak Singh purchased this e-stamp. He further stated that the signatures present on the said E-stamp paper and the relevant register of the stamp vendor are not his, but they are of some other person.

iii) Accused/petitioner Judge Singh in connivance with his co-accused Gursewak Singh Brar made forged agreement to sell with the complainant by keeping him in darkness and getting his signatures on the agreement to sell under the pretext of getting the mutation of land of complainant sanctioned in his favour. In fact, neither any negotiation, nor any agreement to sell his land was executed by the complainant in favour of accused Gursewak Singh Brar and Judge Singh (present petitioner).

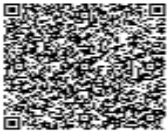
iv) That it is also worth mentioning here that this is a clear case of fraud with the complainant because the accused have said that they gave Rs.1.70 crore to the complainant as earnest money, but, no evidence has been given to this effect and neither anything has come on record as to how they gave this amount to the complainant, what is the mode of payment and also from which source they arranged such a huge amount. Thus, in order to usurp the complainant's land, they kept him in the dark and took him into confidence and made him sign a fake agreement to sell. All these facts prove that all this is the result of a well-planned conspiracy and nothing else.

As per the above details, there is sufficient evidence on record against the petitioner and his other co-accused that they have cheated the complainant by preparing forged documents and using them as real with the intention of illegally grabbing the complainant's land."

7. Given the nature of allegations coupled with the fact that parties have compromised the matter, petitioner is entitled for bail. However, it is clarified that this bail order shall neither be considered as a reason to quash the FIR nor shall come as hindrance in the way of the prosecution or the Court in case, there is violation of Sections 216/217 of BNS 2023 (181/182 IPC earlier).

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, factum of compromise and the other factors peculiar to this case, there would be no justifiability for custodial interrogation or the 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.

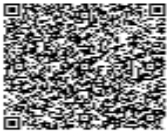
11. Given above, provided the petitioner is not required in any other case, the petitioner shall be released on anticipatory bail in the FIR captioned above subject to furnishing bonds to the satisfaction of the Arresting Officer, and if the matter is before a Court, then the concerned Court and due 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

17.02.2025
Jyoti-II

Whether speaking/reasoned: Yes
Whether reportable: No.