IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M No.5529 of 2024
Reserved on: 13.08.2024
Pronounced on: 30.08.2024

Sukhdev Singh **...Petitioner**

Versus

State of Haryana **…Respondent**

CORAM: **HON'BLE MR. JUSTICE ANOOP CHITKARA**

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

Mr. Rajat Gautam, Addl. A.G., Haryana.

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ANOOP CHITKARA, J.

FIR No.	**Dated**	**Police Station**	**Sections**
107	16.06.2017	Jakhal, Tehsil and District Fatehabad	420, 465, 467, 471, 120-B IPC

1. The petitioner apprehending arrest in the FIR captioned above has come up before this Court under Section 438 CrPC, 1973, seeking anticipatory bail.

2. In paragraph 11 of the bail petition, the accused declares that he has no criminal antecedents, however, as per reply dated 29.07.2024, the petitioner has following criminal antecedents, the details of which are as under:

Sr. No.	**FIR No.**	**Date**	**Offenses**	**Police Station**
1.	230	30.07.2009	Under sections 365, 34, 364, 302 IPC	City Tohana

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

"2. That the brief facts of the case are that the present case was registered on 16.06.2017 on the basis of application moved by complainant Sunder Singh son of Khan Singh, resident of village Kudni Head, Tehsil Tohana, District Fatehabad. Complainant sought legal action against co-accused Gurpreet Singh son of Mukhtiar Singh resident of village Chando Kalan; Pala ram son of unknown, resident of village Mehamra: Baljinder Singh (co- accused) and co-accused Nachhatar Singh officials of HDFC Bank Branch Ratia, District Fatehabad and others. Complainant, inter alia, alleged that co-accused Gurpreet Singh son of Mukhtiar Singh is real brother-in-law (Sala) of his son namely Sukhdev Singh (petitioner) and he (Gurpreet Singh) was running a commission agent shop No.201, situated in Anaj Mandi, Ratia and he (complainant) had also sold his crops 2-3 times on

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the said shop. In May 2014, he (complainant) and his son Sukhdev Singh (petitioner) were in need of money and hence they asked Gurpreet Singh to get them loan from bank. At that time, Pala Ram resident of village Mehamra was also present. Accused Gurpreet and Pala Ram disclosed that they have good acquaintances in HDFC Bank and they can get them loan from said bank, upon which, he became agreed. Accused Gurpreet and Pala asked him and his son Sukhdev Singh (petitioner) to get ready their jamabandi and khasra girdawari records and as per instructions of accused persons, he obtained his revenue records of his land and informed accused Gurpreet Singh in this regard through cell- phone. After some days, all the accused persons came to him in his village Kudni Head and obtained his thumb-impressions on some printed papers and some on blank papers and also took cheque book of his son Sukhdev Singh (petitioner) and he (complainant), reposing confidence upon accused persons, put his thumb-impressions on some printed as well as blank papers and his son Sukhdev Singh (petitioner) signed his cheque book and gave it to accused as accused Gurpreet Singh is brother-in-law (Sala) of his son. Complainant further alleged that after taking these items, accused assured him that loan will be approved within a few days. However, after passing of a month, when he asked accused Gupreet Singh about loan, then he stated that he would get the loan approved within few days but he (complainant) did not get any loan approved from Bank. Thereafter, after few days, accused Gurpreet Singh disclosed to him that Bank Manager has been transferred to some other place and loan cannot be availed, upon which, he asked accused to return his jamabandi and other signed blank papers and cheque book of his son Sukhdev Singh (petitioner) but accused disclosed that all the documents along with loan file have been deposited in the bank and he cannot return the same. Complainant further alleged that when he did not get any loan from Fatehabad Branch, then he obtained loan from SBI, Tohana. It is further alleged that a summon was received from Fatehabad Court in the name of his son Sukhdev Singh (petitioner) and in the copy attached with summon, it was written that he (complainant) had taken a loan of Rs. 19,00,000/- from HDFC Bank Branch Fatehabad in the year 2014 and cheque of Rs. 14,60,000/- dated 06.12.2016 has been given by his son as a security for repayment of said loan and said facts were disclosed by his Advocate, to whom he had shown copy along with summons. Hearing this, he got shocked as he had never taken any loan and never visited Tehsil Complex, Jakhal, Tohana or Fatehabad for mortgaging his land. Complainant further alleged that all accused, in collusion with each other, misused blank papers bearing his thumb impressions and singed cheque book of his son and they had taken loan from Bank in an illegal manner by getting done a fake registration and accused persons had usurped their loan amount. Complainant further alleged that till date no entry of fake mortgage-deed has been registered in the register. Complainant further alleged that accused are persons of criminal nature and they had already taken several fake loans and embezzled the same on the land of some other innocent farmers by preparing fake land documents and criminal cases in this regard are pending against them in Fatehabad, Ratia and Sardulgarh, District Mansa. On complaint of complainant, present F.I.R. was registered under sections 420, 465, 467, 471, 120-B of IPC at Police Station Jakhal District Fatehabad (Haryana) against four accused persons namely 1. Gurpreet Singh, 2. Pala Ram, 3. Baljinder Singh and 4. Nachhatar Singh and investigation was carried out.

6. That further investigation was entrusted to PSI Parveen and during investigation, on 26.10.2023, bank account statement of saving account bearing No. 50100040063166, statement of current account bearing No. 5020006211301 of Sukhdev Singh (petitioner) son of complainant, Mortgage deed, record of Girdawar, Nakal Jamabandi for the year 2010-11 and original cheques of HDFC Bank was obtained from HDFC Bank Ratia and same were taken into police possession. On perusal of the same. it was found that from bank account no. 50100040063166, on 30.11.2015, vide cheque No. 00006 Rs. 9000/- has been withdrawn; on 14.08.2014, vide cheque No. 00009 Rs. 10000/- has been withdrawn; on 08.08.2014, vide cheque No. 00007 Rs. 1950000/- has been withdrawn and on 09.08.2014, vide cheque No. 00008 Rs. 20000/- has been withdrawn. During investigation, it is also found that Nakal Jamabandi for the year 2010-11 bearing Khewat No. 136, total land 132 Kanals 5 marlas has been prepared in the name of Sunder Singh fraudulently and also found that on the basis of these forged documents, loan of Rs. 1982761/- has been obtained from HDFC Bank Ratia.”

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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:

> *"20 That there are serious allegations against petitioner-accused Sukhdev Singh as in the present case, co-accused Baljinder Singh being Sales Officer of HDFC Bank, in collusion with other petitioner-accused Sukhdev Singh and co-accued Gurpreet Singh etc. cheated complainant Sunder Singh, by taking loan of Rs. 19,95,000/-, sanctioned, on the basis of forged mortgage-deed of his land, after preparing false revenue records of his agriculture land. During investigation, co-accused Gurpreet Singh (who is brother-in-law (Sala) of petitioner-accused Sukhdev Singh) was arrested and he, on interrogation, suffered his disclosure-statement regarding his involvement along with petitioner-accused Sukhdev Singh; and co-accused Baljinder Singh; Patwari Kirpal; and Nachhatar Singh. Petitioner-accused Sukhdev Singh also got recovered Rs.10000/-.*

7. Although there is evidence pointing towards the petitioner's involvement but this Court is not considering the matter for charges but is deciding a bail petition. The incidence is of year 2017, and after so much time, the justification of pre-trial incarceration needs an introspection.

8. The Police did not arrest the petitioner; if they intended to arrest the petitioner, it was not impossible. A perusal of the reply does not point out the steps taken to arrest the accused.

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 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 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	

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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. 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.

13. In return for the protection from incarceration, the Court believes that the accused shall also reciprocate through desirable behavior. It is clarified that in case the petitioner does not mend his ways and repeats the offence or indulge in criminal behaviour, then in all future matters, the concerned courts shall keep it as a factor that this court had afforded a final opportunity to the petitioner to reform and live a normal life but did not mend his ways.

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

15. 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.

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

(ANOOP CHITKARA)
JUDGE

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Whether speaking/reasoned: Yes
Whether reportable: No.

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