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

CRM-M-27427-2024
Reserved on: 16.10.2024
Pronounced on: 22.10.2024

Sunil Kumar Diwan ...Petitioner

Versus

State of Haryana …Respondent

CORAM: HON'BLE MR. JUSTICE ANOOP CHITKARA

Present: Ms. Radhika Mehta, Advocate
for the petitioner.

Mr. Aashish Bishnoi, DAG, Haryana.

Mr. Davinder Lubana, Advocate and
Mr. Dhruv Sharma, Advocate
for the complainant.

****

ANOOP CHITKARA, J.

FIR No.	Dated	Police Station	Sections
8	04.01.2021	Naraingarh, District Ambala	406/409/420/467/468/471/120-B IPC, 1860

1. The petitioner incarcerated in the FIR captioned above had come up before this Court under Section 439 CrPC, 1973, seeking regular bail.

2. Per paragraph 10 of the bail application and per paragraph 22 of the reply filed by the State, the accused has the following criminal antecedents:

Sr. No	FIR No.	Date	Offenses	Police Station
1	0255	13.07.2021	120-B/406/420 IPC (Sections 467/468/471/201 IPC and Section 3 of HPIDFE Act added later on	Naraingarh, District Ambala
2	43	11.02.2020	406/420/120-B IPC (Sections 467/468/471 IPC added later on)	Naraingarh, District Ambala
3	558	2023	406/420/34 IPC	Tilak Nagar, Delhi West

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

Jyoti Sharma
2024.10.22 17:03
I attest to the accuracy and
authenticity of this order/judgment
High Court, Sector 1, Chandigarh

> "*3. That as a matter of fact the present case has been registered on the complaint made by Shyam Lal Verma bearing No. 43/R/DSP/N dated 04.01.2021 against the accused-petitioner Sunil Kumar Deewan and other co-accused persons total 18 accused namely Vinod Kumar, Randhir Singh, Rasal Chand, Kuldeep Singh, Suman Sharda, Hamir Singh, Som Nath, Sumit, Amit, Ritu Rani, Ankit, Vipin, Sahil Anil, Kamlesh and Pawan (since deceased). The allegations of the complainant in above mentioned FIR No. U dated 04.01.2021 are that the accused-petitioner Sunil Kumar Diwan, Vinod Kumar and Rasal Chand were employees of the State Bank of India and they alongwith other employees of bank constituted a co-operative society in the name of The Nationalized Bank Employees and other Public Co-Operative T & C Society Limited, Naraingarh' and got it registered with the office of Assistant Registrar Co-operative Societies, Naraingarh District Ambala vide registration No. 13 dated 15.02.1989. Accused Rasal Chand became the President, accused Vinod Kumar was Vice President and present accused Sunil Kumar Diwan was Secretary in the Society alongwith other members and office bearers of the society. In the year 2003, accused Kuldeep Kumar brother in law of accused Rasal Chand joined in the society and nominated as President of the society and co-accused- Randhir Singh joined as Account Manager in the year 2008. All the accused allured the general public to invest in the society to get higher rate of interest 11-12% as compared to the other nationalized Bank and issued FDs against investment to various people. On the allurement of accused, complainant Shyam Lal who was also an employee in the State Bank of India Naraingarh invested Rs 9 Lakh by way of 4 different FDs from the year of 2013. Similarly other complainant Smt. Suman w/o Late Sh. Mohinder Singh and her son Vishal and daughter Heena and daughter-in-law Smt Ashwini Patil w/o Vishal also invested Rs. 84,65,205/- by way of 30 different FDs in the Society. On the each date of maturity of FDs, complainants kept on renewing these FDs till the year 2020. In the year 2020 when the complainant asked to mature their FDs, the accused person refused to return their amount. Accused person thereby committed fraud of Rs. 93,65,205/- as principal amount and after calculation of interest as per maturity date the fraud goes to more than one crore i.e. Rs. 1,30,48,833/-.*"

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. The complainant's counsel opposed bail and referred to para 12, 13 and 16 of the reply filed by State, which read as follows:

> "*12. That it is submitted that during investigation, it has come on record that the co-accused Suman Diwan is the wife of accused-petitioner Sunil Kumar Diwan and Sharda Rani is the wife of co-accused Vinod Kumar. Both the accused Sunil Kumar Diwan and Vinod Kumar purchased and sold different properties in the name of their wives and other family members. The detail*

Jyoti Sharma
2024.10.22 17:03
I attest to the accuracy and
authenticity of this order/judgment
High Court, Sector 1, Chandigarh

of properties purchased in the name of co-accused Suman Diwan and Sharda Rani and others jointly are as under:-
A) 4 Shops at Naraingarh in front of SBI Bank Main Branch
B) Plot of 600 Yards at Pinjore District Panchkula
C) Plot of 300 yards at Kansa Pur district Yamuna Nagar.
D) One Plot at Bilaspur, District Yamuna Nagar.
E) Plot of 200 yards at Shyam Nagar, Sarojini Colony Phase 1, Yamuna Nagar in the name of accused Petitioner Sharda Rani, Suman Diwan, Rajni Lamba and Meenu Lamba.
F) 18 acre land at village Araiyanwala in tehsil Khizarabad District Yamuna Nagar.
G) Two room set in housing society Kala Amb District Ambala.
H) One Show Room in Bilaspur district Yamuna Nagar.
1) 4 Acre Land in village Tamnoli Tehsil Barara, District Ambala.
J) One Kanal Plot in Bilaspur District Yamuna Nagar.
K) Flats in Surya Housing society, Faridabad.

13. That during investigation of the case, it has also come on the record that all the accused have purchased 25 properties from the cheated amount of the general public at various places and thereafter, they in connivance with each other sold the 15 properties and divided the among themselves. However, the accused-petitioner and co-accused could not sell the ten properties. The detail of the properties which could not be sold is as under:-

a) 40 Marla land has been purchased in the name of co-accused Vinod Kumar at Kala Amb, however, in the year 2019, some of the portion of land has been sold in plots but 6 Marla of land is still remained in the name of co-accused Vinod Kumar.
b) Flat No. 703, Mona Greens Society, VIP Road, Zirakpur was purchased in the name of accused-petitioner Sunil Kumar Diwan in the year 2015 having loan of Rs. 35 Lacs.
c) 4 Acre of land in village Tamnoli Tehsil Barara was purchased in the name of accused-petitioner Sunil Kumar Diwan having worth of Rs. One Crore Fifty lacs.
d) Co-accused Sumit Diwan son of accused-petitioner Sunil Kumar Diwan became the co-owner with the investment of cheated amount having 30% share in the factory Bioconic Remidies, Ponta Sahib with two other share holders.
e) There is a medicine factory in the name of Shivam Enterprises at Kala Amb and co-accused Sumit Diwan son of accused- petitioner Sunil Kumar Diwan and Vipin Kumar son of co- accused Rasal Chand became the co-owner with the investment of cheated amount having 33% share each in the factory with one another co-owner Anil Garg.
f) Two plots of 8 Marla and 5 Marla have been purchased in the year 2016 and 2018 respectively in village Ambali with the cheated amount in the name of co-accused Ritu Rani wife of co-accused Randhir and still lying in her name.
g) Co-Accused Randhir Singh constructed a new house in village Ambli with the cheated amount.
h) House No. 849, Sector-17, HUDA Jagadhari, Yamuna Nagar is in the name of co-accused Rasal Chand purchased with cheated amount and is still in his name.
i) House No. 759, Sector-17, HUDA Jagadhari, Yamuna Nagar is in the name of accused-petitioner Sunil Kumar Diwan purchased with cheated amount and is still in his name.
j) House No. 92, Professor Colony, Yamuna Nagar is in the name of co-accused Vinod Kumar purchased with cheated amount and is still in his name.

Jyoti Sharma
2024.10.22 17:03
I attest to the accuracy and authenticity of this order/judgment
High Court, Sector 1, Chandigarh

> *16. That in compliance with the orders of this Hon'ble Court, the co-accused Suman Diwan joined the investigation on 09.08.2021 with the investigating officer and thereafter, the investigating officer enquired facts of the case wherein she admitted her involvement in the commission of crime and thereafter, the co-accused Suman Diwan was arrested in this case and interrogation was carried out but during interrogation she did not co-operate in the investigation and did not disclose in respect of her bank account and use of money cheated by her and her co-accused. However, during investigation, the co-accused produced original sale deed of shop/booth No. 126, Sub Center, Urban Estate, Jagadhari bearing number 8084 dated 07.12.2017 duly registered at Sub Registrar office, Jagadhari in the name of her husband accused-petitioner Sunil Diwan, valued of Rs. 65,00,000/- as per Valuation Report issued by Lamba Associates Yamuna Nagar, Passport bearing number R789741 in her name valid up to 11.12.2027 issued by Chandigarh Passport Authority alongwith undertaking duly attested by Notary and another undertaking of accused-petitioner Sunil Diwan duly attested by Dy. Superintendent Jail, Ambala."*

7. Pre-trial incarceration should not be a replica of post-conviction sentencing. There is sufficient primafacie evidence connecting the petitioner with the alleged crime. However, per paragraph 4 of the bail petition, the petitioner has been in custody since 03.09.2020. Per the custody certificate dated 15.10.2024 the petitioner's total custody in this FIR is 3 years, 3 months and 3 days. Given the penal provisions invoked viz-a-viz pre-trial custody, coupled with the primafacie analysis of the nature of allegations, and the other factors peculiar to this case, there would be no justifiability further pre-trial incarceration at this stage.

8. 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. This order shall come into force from the time it is uploaded on this Court's official webpage.

9. 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 Ilaqa Magistrate/duty Magistrate. Before accepting the surety, the concerned Court must be satisfied that if the accused fails to appear, such surety can produce the accused.

10. 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)	

Jyoti Sharma
2024.10.22 17:03
I attest to the accuracy and
authenticity of this order/judgment
High Court, Sector 1, Chandigarh

4.	E-Mail id (If available)	

11. This order is subject to the petitioner's complying with the following terms.

12. 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. Considering the substantial evidence of money laundering and the necessity to confiscate the proceeds of the crime, the concerned Superintendent of Police is directed to communicate this order to the Enforcement Directorate immediately. Upon receipt, the Enforcement Directorate will inquire and proceed under the Prevention of Money Laundering Act, 2002, if not already initiated.

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

22.10.2024
Jyoti Sharma

Whether speaking/reasoned: Yes
Whether reportable: No.

Jyoti Sharma
2024.10.22 17:03
I attest to the accuracy and
authenticity of this order/judgment
High Court, Sector 1, Chandigarh