



IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

Decided on: 12.09.2024

1. CRM-M No.28179 of 2024

Rajesh Kaushik ...Petitioner

Versus

State of Punjab ...Respondent

2. CRM-M No.28545 of 2024

Balwinderpal Sharma @ Balwinder Pal Kaushik and Another ...Petitioners

Versus

State of Punjab ...Respondent

CORAM: HON'BLE MR. JUSTICE ANOOP CHITKARA

Present: Mr. Mahipal S. Yadav, Advocate for
Mr. Sunny. K. Singla, Advocate
for the petitioner (in CRM-M-28179-2024) .

Mr. Ishan Gupta, Advocate with
Ms. Harita Panthey, Advocate
for the petitioners (in CRM-M-28545-2024)

Mr. Sukhdev Singh, A.A.G., Punjab.

ANOOP CHITKARA, J.

FIR No.	Dated	Police Station	Sections
62	01.05.2024	Lehra, District Sangrur	420, 120-B IPC

1. The petitioners apprehending arrest in the FIR captioned above have come up before this Court under Section 438 CrPC, 1973, seeking anticipatory bail. Both the petitions are arising out of same FIR, as such facts are being taken from CRM-M-28179-2024.

2. As per para 9 and 12 of CRM-M-28179-2024, the petitioner-Rajesh Kaushik



declares that he has no criminal antecedents.

3. The facts and allegations are being taken from the reply dated 11.07.2024 filed by the State, which reads as follows:

"2. That in compliance with above said order dated 30.05.2024, it is respectfully submitted that a detailed complaint dated 19.12.2022 was submitted to the Senior Supdt. Of Police, Sangrur by complainant Vikram Sharma son of late Sh. Rameshwar Dass resident of village Bhutal Kalan Police station Lehra Gaga, District Sangrur, now residing at House No.2045 near Taj Tower, Sector-104, SAS Nagar (Mohali) Mobile No.95929- 60201,83603-84275 against, for registration of FIR against,

i. Varinder Pal Sharma (petitioner/ accused)

ii. Balwinder Pal Kaushik sons of late Sukhdev Sharma son of late Sh. Baggu Ram residents of village Bhutal Kalan P.S. Lehra Gaga District Sangrur

iii. Rajesh Kaushik (co-accused) son of late Sh. Hardev Sharma, resident of House No. 704, Block-B, Agar Nagar, Ludhiana.

iv. Gursewak Singh, A.E. P.S.P.C.L.office Lehra Gaga (D)

v. Jashanpreet Singh, R.A. PSPCL office Lehra Gaga

leveling the allegations against them that in the month of May, 2021, accused /petitioner Varinder Pal Sharma, Balwinder Pal Kaushik (accused/petitioner) and Rajesh Kaushik (co- accused) stopped the father and brother of the complainant to use the combined motor tubewell bearing AP No.BL-132 and AP No.01209 and started giving threat to the complainant and his family that if the complainant or his family members came into the fields for using water of motor connection AP No.BL-132, they will kill them (complainant), as they have got transferred the motor connection No.BL-132 and AP No.07/209 on the name of Varinder Pal Sharma (accused/petitioner No.2) and Rajesh Kaushik (co- accused) respectively. Thereafter, complainant inspected the file of AP connection No. BL-132 and AP No.07/209 from the office of Asstt. Engineer PSPCL Lehra Gaga and found that Varinder Pal Sharma (accused/petitioner No.2) and Balwinder Pal Kaushik (accused/petitioner No.1) had got transferred the motor connection of AP No.BL-132 on the name of Sharma (accused/petitioner No.2) Varinder Pal on 17.10.2023 by giving false affidavit that there is no dispute with any one regarding this motor connection. Whereas just before a month from the date of transfer of the AP Connection No.BL-132, dispute was settled on 01.09.2013 before Gram Panchayat of village Bhutal Kalan, where Varinder Pal Sharma (accused/petitioner No.2) and Balwinder Pal Kaushik, (accused/petitioner No.1) themselves admitted that Sukhdev Sharma, (father of the petitioners) and Sh. Rameshwar Dass (father of the complainant) have equal share in motor connection and the tube well bearing AP NO.BL- 132. Rajesh Kumar, co-accused/cousin brother of the complainant son of Hardev Sharma had got transferred motor connection bearing AP No.07/209 on his name on dated 29.01.2019 by using forged and fake affidavit, NOCS of Ram Sarup and Rameshwar Dass and Baldev Ram in connivance with Balwinder Pal Sharma and Varinder Pal Kaushik (Petitioners). On 01.06.2021 complainant gave complaint to A.E.PSPCL Lehra Gaga (D) against both the



petitioners and Rajesh Kaushik co-accused but till 19.12.2022 no action was taken on the complaint. Rather Gursewak Singh A.E. and Jashanpreet Singh, R.A. intentionally/illegally have disposed of the official record in connivance with Varinder Pal Kaushik, Balwinder Paul Sharma and Rajesh Kaushik regarding above said motor connections. The detailed complaint reproduced in the FIR has already been attached as Annexure. P-1 (Page No.19-34) by the petitioners with the petition.”

4. The complainant’s grievance is that one of the accused namely, Balwinder Pal Sharma who is working in Punjab State Power Corporation Limited (PSPCL) uses its instruments to indulge in fabrication and forging of documents.

5. Given above, the complainant shall be at liberty to make a representation to the Managing Director, Punjab State Power Corporation Limited (PSPCL) informing them about the misuse of position by the accused namely, Balwinder Pal Sharma.

6. The petitioners’ counsel prays for bail by imposing any stringent conditions and contends that further pre-trial incarceration would cause an irreversible injustice to the petitioners and their family.

7. The State’s counsel opposes bail and refers to the reply.

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

“4. The role of the petitioner:-

That in the above said petitioners and Balwinder Pal Kaushik and co-accused case is that the Pal Sharma, Varinder Rajesh Kaushik have cheated and played fraud with the complainant/his family by getting transferred the motor connection bearing AP No.BL-132 (05/501) and AP No.07/209 (07/0574) on their names, on the basis of false and frivolous documents and affidavits.

5. The evidences against the petitioner:

- i. Statement of Baldev Ram (uncle of accused/ petitioner Varinder Sharma).
- ii. Affidavit dated 03.01.2007 of Sukhdev Sharma in favour of Rameshwar Dass (father of the complainant) and Ram Sarup.
- iii. Compromise made in the panchayat.”

9. There is sufficient prima facie evidence connecting the petitioners with the alleged offense; still, it is neither a case for custodial interrogation nor pre-trial incarceration.

10. 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 petitioners make a case for bail.

11. Given above, provided the petitioners are not required in any other case, the petitioners 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 petitioners' complying with the following terms.

14. The petitioners are directed to join the investigation within seven days and as and when called by the Investigator. The petitioners shall be in deemed custody for Section 27 of the Indian Evidence Act. The petitioners 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 petitioners shall not be subjected to third-degree, indecent language, inhuman treatment, etc.

15. The petitioners shall abide by all statutory bond conditions and appear before the concerned Court(s) on all dates. The petitioners 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. 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(s) are allowed** in terms mentioned above. All pending applications, if any, stand disposed of.

(ANOOP CHITKARA)
JUDGE

12.09.2024
Sonia Puri

Whether speaking/reasoned:	Yes
Whether reportable:	No.