

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-43036-2024
Reserved on: 17.09.2024
Pronounced on: 27.09.2024

Bhagat Ram ...Petitioner

Versus

State of Haryana ...Respondent

CORAM: HON'BLE MR. JUSTICE ANOOP CHITKARA

Present: Mr. Akshay Jindal, Advocate
for the petitioner.

Mr. Aashish Bishnoi, D.A.G., Haryana.

ANOOP CHITKARA, J.

FIR No.	Dated	Police Station	Sections
123	03.04.2024	Sadar Nuh, District Nuh	7/13 of the PC Act

1. The petitioner incarcerated in the FIR captioned above had come up before this Court under Section 483 of Bharatiya Nagarik Suraksha Sanhita, 2023, [BNSS], seeking regular bail.

2. Per paragraph 13 of the bail application, the accused has the following criminal antecedents:

Sr. No.	FIR No.	Dated	Offences	Police Station
1	109	17.04.2024	7/13 of the PC Act	City Nuh
2	177	31.07.2024	7/13 of the PC Act	City Nuh

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

“2. That the brief facts of the present case are that a complaint bearing No.398-PG/Special dated 22.03.2024 of Hazari Singh son of Rajbir Singh R/o village Sangel, PS Sadar Nuh received from DPO Nuh with the enquiry report of senior officers at Police Station Sadar Nuh, against Bhagat Ram Sarpals Patwari Hall Halka Ghaseda District Nuh to Area of Ferozepur Namak for taking bribe money of rupees 2 lakh on 17.06.2023 from the complainant by him as a Government employee in exchange of getting land in the name of complainant. The details of the complaint are as follows:- To Superintendent of Police, Nuh. Subject: Application against Bhagat Ram Surplus Patwari Halka

Ghaseda Tehsil and District Nuh for taking bribe money to allotted land in the name of complainant. Sir, it is a request that I am the applicant Hazari Singh S/o Rajbir Singh R/o village Sangel. Tehsil & district Nuh. Before now, Bhagat Ram was working as Surplus Patwari in district Nuh. Who told me while holding this post about two years ago that there is a lot of area of Sarpal in village Sangel Tehsil Nuh. If, you make a deal of land with allotted persons, then I will have to pay Rs. 2,00,000/- (Two Lakh rupees) per acre in return for it. That I trusted Bhagat Ram and handed over Rs. 2,00,000/- (Two Lakh rupees) in cash to Bhagat Ram in Government quarter on 17.06.2023, Jai singh alias Pintu S/o Chhajju, R/o village Sangel, counted and wrapped the entire amount in paper and handed over to Bhagat Ram Patwari. Who kept it in his pant pocket and left the spot. Videography similar to this is present in my mobile phone. That even after taking so much bribe, Bhagatram Patwari has not given land to us. For which I have been saying again and again, but Bhagat Ram Patwari is not taking any action regarding getting me the land with the intention of usurping my above mentioned amount.”

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 status report.

6. It would be appropriate to refer to the following portions of the status report, which read as follows:

“5. That on 15.04.2024, call data record, tower location and CAF ID of mobile number 99916-09044 of Hazari Singh, mobile number 98132-59807 of Jaisigh @ Pintu and mobile number 97285-88111 of accused Bhagat Ram Patwari were obtained from the service provider from 15.06.2023 to 18.06.2023. According to CDR, locations of the above mentioned three numbers were found at one place at the time of incident on 17.06.2023 and mobile No.99916-09044 of complainant Hazari Singh and Mobile No.97286-88111 of accused Bhagat Ram were in contact to each other and outgoing/incoming calls were found to be made from mobile number 99916- 09044 of complainant Hazari Singh on the mobile number 97286-88111 of accused Bhagat Ram at 9:36 AM for 52 seconds (outgoing) and 11:06 AM for 08 seconds (outgoing) and at 11:32 AM for 41 seconds (incoming) and statements of witnesses were recorded u/s 161 Cr.P.C.”

6. That it is pertinent to mention here that on 18.04.2024, complainant Hazari Singh presented an agreement of Khewat/Khata No. 1230/1283 Must. No. 90, Kila No. 13/1 (7-5) Total Area 7 Kanal 5 Marla Salam situated at Sangel Tehsil Nuh. In this regard, an application vide memo No. 1932-D dated 08.04.2024 was moved in the office of Sub-Divisional Officer (Civil) Nuh for taking the record pertaining to the said land where Surjeet Office Kanugo found present. Who has given agreement of above mentioned land and one copy of Jamabandi Khewat/Account No.1230/1283 has been presented and statement was recorded under section 161 Cr.P.C.

7. That during the course of investigation sufficient evidences I.e. Videography, statement u/s 164 Cr.P.C. of

complainant and eye witness, CDR, Tower locations mobile numbers and outgoing/incoming calls made between complainant and accused were collected against accused Bhagat Ram (Surplus Patwari Sangel), son of Jagat Singh, resident of Paplokyar Post Office, Dhandog police station, Chandi Mandir, District Panchkula presently Flat No.1016, Sector-28, Pachkula and he was arrested in the present case on 06.06.2024 and got medico-legally examined. He was interrogated by the Investigating Officer, upon which he has suffered his disclosure statement and confessed his crime in front of the witness without any fear, pressure and greed and accused Bhagat Ram was produced before the Ld. Court on 07.06.2024 and 03 days police remand was obtained from the Ld Court."

7. Pre-trial incarceration should not be a replica of post-conviction sentencing. There is sufficient prima facie evidence connecting the petitioner with the alleged crime. However, per paragraph 3 of the bail petition, the petitioner has been in custody since 06.06.2024. Per the custody certificate dated 07.09.2024, the petitioner’s total custody in this FIR is 2 months and 28 days. Given the penal provisions invoked viz-a-viz pre-trial custody, coupled with the prima facie 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)	
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. Any observation made hereinabove is neither an expression of opinion on the case's merits nor shall the trial Court advert to these comments.

14. 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.

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

(ANOOP CHITKARA)
JUDGE

27.09.2024
Jyoti Sharma

Whether speaking/reasoned: Yes
Whether reportable: No.