IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRM-M-49812-2024
Reserved on: 07.11.2024
Pronounced on: 19.11.2024

Harjeet Singh ...Petitioner

Versus

State of Punjab …Respondent

CORAM: HON'BLE MR. JUSTICE ANOOP CHITKARA

Present: Mr. Vivek Singla, Advocate
for the petitioner.

Mr. Jasjit Singh, DAG, Punjab.

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ANOOP CHITKARA, J.

FIR No.	Dated	Police Station	Sections
0011	17.01.2019	Civil Lines, Distt. Bathinda	420 & 34 IPC

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. As per paragraph 14 of the bail petition/status report and custody certificate dated 07.11.2024, the accused has the following criminal antecedents:

Sr. No.	FIR No.	Date	Offenses	Police Station
1	02	2020	420/406/506 IPC	Mawana, U.P.
2	659	2020	406/420/120B/180 IPC	Gharaunda, Karnal
3	543	2018	420/406/467 IPC	Sector-58, G.B. Nagar, U.P.
4	28	2020	409/420/174A/120B IPC and 3/4 of PCMC Act	EOW
5	130	05.10.2018	406/420/465/467/468/471/120B IPC	SAS Nagar Mohali, Punjab
6	490	23.07.2022	420/506 IPC	Kharnonda, Karnal. Haryana

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

"4. That the brief facts of the aforesaid FIR are that an application was moved by the complainant Uma Singh, Gian Verma, Parminder Singh,

Ravinder Kumar and Ram Babu addressing to the Senior Superintendent of Police Bathinda against the accused Varinder Sharma and Deepak Soni, Jain and Bharat Gaurav Bhushan for committing fraud with the complainant as well as with many more innocent people by giving allurement to give double the amount of the deposited. In furtherance of, the complainant stated that the accused took lacs of rupees from the innocent person and made them believe that they used to invest the said money in the Films and used to return back the same along with huge interest and stated further that in connection with invested money the agreement will also be executed with the Company and company will make monthly investors. interest But after passing to the of sufficient time, the complainant demanded their money from Deepak Soni. He avoided initially the complainant and said that they (complainants) should forget about their money. When the aforesaid complainant told to Deepak Soni about taking legal action against him, then he threatened them (the complainant) that whoever demands his/her invested money, in that event, he (Deepak Soni) will mention his/her name in his suicide note and said that hehad not invested complainant's money in any company, rather he had purchased a house worth Rs. 20-25 lacs. Besides this, he purchased a car, motorcycle and other valuable articles for the house. Similarly, accused Varinder Sharma and Gaurav Jain along with Bharat Bhushan have also purchased houses and costly cars from the invested money by the complainant and other innocent people.. In the said complaint, the complainant stated that Deepak Soni, Varinder Sharma, Gaurav Jain and Bharat Bhushan were involved in commission of cheating with innocent people. The accused used to allure innocent people by calling them in hotels of Bathinda. Besides Punjab, the accused had also trapped innocent people in the other state such as Haryana, Utter Pradesh, Bihar etc. The accused had embezzled crores of Rupees from the innocent people."

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:

"7. Pertinently, the accused-petitioner was one of the director of his company of Blue fox Motion Pvt. Ltd. along with other co-accused having shareholding of 90% in the said company. The customer/aggrieved

person/ complainants used to deposit amount in the account No. 201000635135, Indus Ind Bank, running in the name of Blue Fox Motion Pvt. Ltd. and in connivance with accused, the money was used to be transferred into the account of the co-accused. A precise table of transfer of money from the aforesaid account into the account No.10000663928, IDFC Bank, of the co-accused Priyash Sinha is as follows:-

Date of transaction	From account No.201000635135 Indus Ind Bank	In the account No.10000663928 IDFC Bank	Amount
03.03.2017	Blue fox motion Pvt. Ltd.	Co-accused Priyash Sinha	1,00,000/-
19.05.2017			1,50,000/-
12.06.2017			1,95,000/-
13.11.2017			1,50,000/-
13.12.2017			1,50,000/-
		Total	7,45,000/-

7. The prolonged incarceration, generally militates against the most precious fundamental right guaranteed under Article 21 of the Constitution and in such a situation, the conditional liberty must override the statutory embargo created under Section 37(1)(b)(ii) of the NDPS Act.

8. There is sufficient primafacie evidence connecting the petitioner with the alleged crime. However, pre-trial incarceration should not be a replica of post-conviction sentencing. As per paragraph 6 of the bail petition, the petitioner has been in custody since November 2023. Per the custody certificate dated 07.11.2024, the petitioner’s total custody in this FIR is 01 year & 13 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.

9. 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 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.

11. 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)	

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

19.11.2024
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Whether speaking/reasoned: Yes
Whether reportable: No