

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-51743-2024
Reserved on: 14.11.2024
Pronounced on: 26.11.2024

Sunil ...Petitioner

Versus

State of UT Chandigarh ...Respondent

CORAM: HON'BLE MR. JUSTICE ANOOP CHITKARA

Present: Ms. Vaishali Thakur, Advocate for
Mr. Vivek K. Thakur, Advocate
for the petitioner.

Mr. Manish Bansal, P.P., UT, Chandigarh with
Mr. Shubham Mangla, Advocate.

ANOOP CHITKARA, J.

FIR No.	Dated	Police Station	Sections
90	13.09.2024	Industrial Area, Chandigarh	420, 467, 468, 471, 120-B IPC

1. The petitioner apprehending arrest in the FIR captioned above has come up before this Court under Section 482 of Bharatiya Nagarik Suraksha Sanhita, 2023, [BNSS], seeking anticipatory bail.
2. In paragraph 11 of the bail petition, the accused declares that he has no criminal antecedents.
3. The facts and allegations are being taken from the status report filed by the State, which reads as follows:

“3. That the present FIR No.90 Dated 13.09.2024 Under Sections, 420,467,468,471 and 120-B of IPC P.S. Industrial Area, Chandigarh was registered at the instance of one Sulinder S/o Zile Singh who moved a complaint on public window alleging therein that the Punjab National Bank was disbursing the salary to Sanitisation Workers of Health Department Municipal Corporation, Chandigarh for the last 10-15 years however Shyamlal Ghanwari (President of Union of Sanitation Workers) and Sunil (Sanitation Worker) got transferred the accounts of illiterate and innocent Safai Karamcharis to other banks by luring to clear their already running personal loans. Firstly, they transferred the account in branch of HARCO Bank, Sector-19, Chandigarh and then in State Bank of India, Sector 30, Chandigarh. They along with the Manager of SBI namely Rahul Rana caused financial loss to all the three banks by facilitating the ineligible Safai

Karamcharis to get loan from the banks on the basis of forged documents. Rahul Rana the Manager of the bank submitted the forged NOC, fake salary certificates, fake form no.16 and other forged documents of the Sanitisation workers. Shaymalal Ghanwari used to take 10% commission for that purpose. They also got transferred the accounts of 100-150 Safai Karamcharis without clearing the loan taken from the previous bank, thereafter they facilitated them to get loan from New Bank on the basis of forged documents. The complainant had also attached a list of Sair Karamcharis, who took loan from the bank on the basis of forged document with the complaint.

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 the present petitioner has been specifically named in the FIR and is a Sanitisation Worker in Municipal Corporation who got signatures of the Sanitisation employees on fake/forged documents on the pretext that the previous loans will be dispensed with and new loan will be provided by the bank in which their account is being transferred. It would be pertinent to mention that the petitioner took advantage of the illiteracy of the employees and got them trapped. It would be pertinent to mention that the petitioner cheated not only the employees but also the bank authorities. The petitioner also took commission for getting the signatures of the employees."

7. Pre-trial incarceration should not be a replica of post-conviction sentencing. The evidence might be prima facie sufficient to launch prosecution or to frame charges, but this Court is not considering the evidence at that stage but is analyzing it for the stage of anticipatory bail.

8. The necessary steps, such as interrogating the petitioner, must be taken to recover the money. If he fails to recover the money, an application must be filed to cancel this bail.

9. 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 petitioner makes a case for bail. This order shall come into force from the time it is uploaded on this Court's official webpage.

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 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.

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

13. The petitioner is directed to join the investigation within seven days of uploading this order on the official webpage of the High Court of Punjab and Haryana and as and when called by the Investigator. The petitioner shall be in deemed custody for Section 27 of the Indian Evidence Act, 1872/ Section 23 of BSA, 2023. The petitioner 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 petitioner shall not be subjected to third-degree, indecent language, inhuman treatment, etc.

14. 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.

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

16. 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.

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

(ANOOP CHITKARA)
JUDGE

26.11.2024
Jyoti Sharma

Whether speaking/reasoned: Yes
Whether reportable: No.