

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M No.52223 of 2024
Reserved on: 08.11.2024
Pronounced on: 19.11.2024

Rajesh Kumar ...Petitioner

Versus

State of Haryana ...Respondent

CORAM: HON'BLE MR. JUSTICE ANOOP CHITKARA

Present: Ms. Shivani Jaglan, Advocate
for the petitioner(s).

Mr. Viney Phogat, DAG, Haryana.

ANOOP CHITKARA, J.

FIR No.	Dated	Police Station	Sections
383	01.05.2023	Samalkha, District Panipat	180, 420, 406, 506, 120B 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. Per paragraph 17 of the bail application and the custody certificate, the accused has the following criminal antecedents:

Sr. No.	No.	Date	Offenses	Police Station
1.	FIR No. 458	20.05.2023	Under sections 406, 420, 120-B, IPC	Smalkha, Panipat

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

“2. That the prosecution case, and the status of investigation/case carried out by the police in present case, is as under: -

(i) That on 01.05.2023, the present FIR No. 383 was registered after receiving enquiry report on the complaint moved by Mayank Singla. The contents of

complaint are reproduced below for the kind perusal of Hon'ble Court as under:-

"I, Mayank Singla S/o Manoj Kumar Rio 64, Gali No. 6, Deshraj Colony, Panipat, contact number 99920-44594. I am engaged in the blanket trade. The accused, Anil Kumar (Accused No. 2), met me in October 2022 through an acquaintance and showed me an agricultural land deal of 16 kanals located in village Rakseda, Tehsil Samalkha, District Panipat. The second owner. Rajesh Kumar, son of Panna Lal Maurya, is also known to me. After inspecting the land, I requested Anil Kumar for a month to arrange the earnest money, but he refused, insisting that I have to make a full and final payment if I wanted the deal. He assured me he would allow ample time for the registration. Trusting him and after reviewing the land documents, I finalized the purchase of the 16 kanals of agricultural land from Anil Kumar and Rajesh Kumar for Rs. 50 lakh. On 15.09. 2022, a formal agreement was made, with Rajesh Kumar (Accused No. 3) acting as a witness, where I paid Rs. 30 lakh by check number 430756 and Rs. 20 lakh in cash. However, when I contacted Anil for the registration after some time, he began to evade me. Becoming suspicious, I investigated the land deal through Samalkha Tehsil and was shocked to discover that Anil and Rajesh had deceived me, having registered the land in the name of another person, Sonia Bhatia, wife of Jawahar Bhatia, resident of House No. 86, Model Town, Panipat, on March 16, 2023. When I confronted Anil about this, he continued to avoid the topic and told me to speak to Rajesh, although Anil himself had arranged the deal. When I visited Anil again, he assaulted me, threatened my life, and warned me not to approach him again. I later learned that Anil is a cunning and deceitful person who has previously defrauded many others and has several complaints of fraud and deception filed against him, including bearing FIR No. 203 dated 14.04.2022, registered at the Police Station City, Panipat. Therefore, I respectfully request you to register a case under strict provisions against all the accused, arrest them, and conduct an in-depth investigation to uncover other victims who may have been defrauded by this criminal scheme. Anil, son of Ramesh Chandra, is the main conspirator who, through a planned criminal conspiracy, took Rs. 50 lakh from me. I would be immensely grateful for your action in this matter."

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:

"3. That the role of the petitioner is that complainant specifically named as accused in the FIR of present case. He executed full and final payment agreement to sell dated 15.09.2022 of the disputed land with the complainant and obtained a sum of Rs. 50 lacs from him (Rs. 30 lacs via RTGS and Rs. 20 lacs

in cash). However, he delayed to get land transferred in the name of the complainant under one pretext or the other. On enquiry by the complainant it was revealed that the petitioner had already sold the disputed land to Sonia Bhatia and got the land transferred in her name vide Vasika No. 4305 dated 16.03.2023. In this manner, he along with co-accused Anil Saini duped a sum of Rs. 50 lacs from the complainant in this case. The petitioner has confessed to his role in crime and got recovered only Rs. 10,000/- from his share as per his disclosure statement, Annexure R-2.”

7. There is sufficient prima facie evidence connecting the petitioner with the alleged crime. However, pre-trial incarceration should not be a replica of post-conviction sentencing. Per the custody certificate dated 6-11-24, the petitioner’s total custody in this FIR is 7 months and 25 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 Ilqa 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. This bail is conditional, and the foundational condition is that if the petitioner indulges in any non-bailable offense, the State may file an application for cancellation of this bail before the Sessions Court, which shall be at liberty to cancel this bail.

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

19.11.2024
Sonia Puri

Whether speaking/reasoned:	Yes
Whether reportable:	No.