

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M No.52494 of 2024
Reserved on: 08.11.2024
Pronounced on: 19.11.2024

Kulwinder Singh @ Sonu ...Petitioner

Versus

State of Punjab ...Respondent

CORAM: HON'BLE MR. JUSTICE ANOOP CHITKARA

Present: Mr. Ashok Kumar Khunger, Advocate
for the petitioner.

Mr. Jasjit Singh, DAG, Punjab.

ANOOP CHITKARA, J.

FIR No.	Dated	Police Station	Sections
37	27.04.2024	Arniwala, District Fazilka	406, 419, 420 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 i.e. note 2. of the bail application, the petitioner has clean antecedents.

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

“(i) The complainant Makhan Singh son of Jagan Singh moved an application (No.1333-SPL-PC, dated 08.12.2023) to the S.S.P., Fazilka, levelling allegations of cheating, etc. against the accused, requested for taking legal action against them. The enquiry in the said Fazilka was conducted by the D.S.P.(D), Fazilka. During the enquiry, the allegations as contained in the said application, were found to be true and the enquiry report No.92-PC-R-DSP(D)FZK dated 20.04.2024 was approved by the S.S.P., Fazika and accordingly, the FIR in question was registered against the accused.

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:

*“5. **The Role of the petitioner**- The petitioner who is the only accused in the FIR in question, fraudulently received Rs.28.00 lakhs from the complainant, by proclaiming himself as Personal Assistant of Shri Raminder Amla, MLA and represented to the complainant saying that he will arrange Govt. jobs and bus permits for the family members and relatives of the complainant.*

***The Evidence against the petitioner** - During the investigation, the incriminating evidence came on file against the petitioner.”*

7. The allegations pertain to cheating on assuring benefits through bribes and the complainant knew that the money was being paid for undue benefits through illegal means, and undoubtedly, later on, cried foul; it is just like the kettle calling the pot black.
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. Per paragraph 5 of the bail petition, the petitioner has been in custody since 16.06.2024. Per the custody certificate dated 07.11.2024, the petitioner’s total custody in this FIR is 04 months and 20 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. 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 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. This order is subject to the petitioner’s complying with the following terms.

13. 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.

14. 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.

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.

17. **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.