

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-62581-2023
Reserved on: 17.09.2024
Pronounced on: 27.09.2024

Narinder Kumar ...Petitioner

Versus

State of Punjab ...Respondent

CORAM: HON'BLE MR. JUSTICE ANOOP CHITKARA

Present: Mr. Jagandeep Singh, Advocate
for the petitioner.

Mr. Jasjit Singh, D.A.G., Punjab.

Mr. G.S. Ghot, Advocate
for the complainant.

ANOOP CHITKARA, J.

FIR No.	Dated	Police Station	Sections
268	14.09.2023	Zirakpur, SAS Nagar (Mohali)	406, 420, 120-B IPC

1. The petitioner apprehending arrest in the FIR captioned above has come up before this Court under Section 438 CrPC, 1973, seeking anticipatory bail.
2. Vide order dated 05.01.2024, the petitioner was granted interim bail and the said order is continuing till date.
3. As per paragraph 8 of the reply, the accused has the following criminal antecedents:-

Sr. No.	FIR No.	Date	Offenses	Police Station
1.	107	14.10.2023	406, 420, 506, 120-B IPC	Jhulka
2.	150	14.09.2023	420 IPC	City-I Mansa
3.	143	01.08.2023	420, 120-B IPC	Lehra
4.	226	19.07.2023	406, 420, 467, 468, 471, 120-B IPC	Tripari Patiala

4. The facts and allegations are being taken from the copy of FIR, annexed with the petition, which reads as follows:

“At this time complaint number 4215/Peshi/S.S.P. dated 04.08.2023, “To the Respected S.S.P. Sahib, S.A.S. Nagar (Mohali) Subject- application for initiating proceedings against Chetan Goyal Son of Narinder Goyal, (2) Narinder Goyal,

Resident 045,001 Abchal Nagar, Near Anaj Mandi, Patiala, Punjab Respected Sir, it is requested that-1) That the applicant Sukhwinder Singh son of Late S. Balbir Singh, resident of Village Lohsimbali, Sub-Tehsil Ghanour, Tehsil Rajpura, District Patiala And presently the applicant resides at 32, Gracedale, Boulevard, Toronto, Ontario, Canada. 2) That the applicant's father S. Balbir Singh died on 06-12-2020 and after that time the applicant suffered from corona disease. Due to this reason and due to his own illness in Canada, the applicant could not return to India and thereafter the applicant returned now in March 2023. 3) That the applicant owns about 47 acre of land at village Lehsimbali and village Mandor, which the applicant has given on lease. The applicant had not collected the rent of the land for last 3 years due to applicant being ill and due to corona crisis. 4) That the applicant has a dispute with his sister-in-law Sandeep Kaur and her family members regarding the land of the applicant. Regarding which the petitioner used to visit his father's lawyer Chaudhry Karamjit Singh, whose office is at Skynet Tower, Zirakpur, where on 09-06-2023 I met Bikramjit Singh Bhullar lawyer Patiala and along with him another person whose name was later found to be Chetan Goyal was present. 5) That in conversation I told Vakil Sahib that my tenant had given me my outstanding rent in cash and I asked them about a known money exchanger, Chetan Goyal. At once said that he only deals in money exchange and air tickets and he can give me Canadian dollars at a cheap rate. Bikramjit Singh Bhullar said that he knows Chetan Goyal and he also takes ticket and money exchange service through him because his son also studies in Canada and he has just returned from Canada. 6) That I trusted Chetan Goyal, who told me that he can give me Canadian dollars at the rate of 57 rupees per dollar, but I have to pay cash first and after 02 days he will give me Canadian dollars. Relying on him, I gave him Rs.22,80,000/- in cash for 40 thousand Canadian Dollars in the office of Chaudhary Karamjit Singh Vakil in his presence and in the presence of Bikramjit Singh Bhullar. 7) That then on 11-06-2023 when I inquired, Chetan Goyal told me that the delivery of the dollars is delayed due to some technical reason and that he would give me 40 thousand Canadian dollar on 14.06.2023. 8) that on 14.06.2023 I come again to the office of Vakil Sahib, who called Bikramjit Singh Bhullar, Chetan Goyal at the office, then again Chetan Goyal showed a mail which was on chetangoyal8803@gmail.com from F.X. International showing the balance stock to be delivered in 6-7 days and Canadian Dollar 2,30,000/-, American Dallor 45,000/- Euro 56,000/- on that Chetan Goyal promised to pay dollars by date 28-6-2025. A copy of the email is attached. 9) That again on 29-06-2023 I went to Bikramjit Singh Bhullar's house at Patiala with my Advocate, where Bhullar Sahib called Chetan Goyal and his father Narinder Goyal, where Chetan Goyal And Narinder Goyal assured the applicant that they would give 40 thousand Canadian Dollars to the applicant by 14-07-2023 and also said that if they cannot give 40 thousand Canadian dollars by 14-07- 2023 to the applicant, then on 18-07-2023 will refund to the applicant the total amount of Rs. 22,80,000/-. In this regards they have given a check No. 114093 dated 18-07-2023 of State Bank of India Branch Tripri Account No. 33143419707 of Chetan Goyal. Chetan Goyal gave this check by putting his signature on it and said that if the applicant does not get the dollars then he after

18-07-2023 can get the check cashed otherwise he will return the check after receiving the said Canadian dollar on 14-07-2023. 10) That on 14-07-2023 I tried to talk to Chetar Goyal on his mobile number 87280-07160 but the phone was switched off. Then I spoke to Bikramjit Singh Bhullar lawyer and he told that Chetan Goyal's phone is switched off and he is not present at home either. 11) That again on 18-07-2023 I tried to contact Chetan Goyal again but could not and on inquiry came to know that Chetan Goyal and his father had left the house and disappeared along with his family and they have cheated other persons like me of crores of rupees regarding money exchange and air tickets, regarding which some persons have already filed cases in district Patiala and various places. 12) That the accused Chetan Goyal and Narinder Goyal conspired to cheat me of Rs. 22,80,000/-. Other persons may also be involved in this conspiracy. Therefore, by submitting this application, it is requested that strict action be taken against accused persons by registering a case regarding all this fraud and cheating and to provide me justice. Applicant Sd/-Sukhwinder Singh.”

5. 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.

6. The State's counsel opposes bail and refers to the reply.

7. The complainant's counsel opposes bail and has drawn the attention of this Court to attempts to mediate and the petitioner backing out of his promises.

8. It would be appropriate to refer to paras 4 and 5 of the bail petition, which read as follows:-

“4. That further it is pertinent to mention here that the entire deal was between the complainant and the co-accused Chetan Goyal that is the son of the petitioner. The money was given to the co-accused Chetan Goyal and the cheque was also issued to the co-accused Chetan Goyal. The petitioner had no role what so ever in it. Even if the allegation of complainant is considered that Bikramjit called the petitioner to his house and the petitioner went there willingly even then it is not sufficient evidence to implicate the petitioner in the present FIR. If any person is indulged in any type of wrongful deed or any criminal activity and someone calls his father to complainant against him and even after that the person does not mend his ways. It does not automatically make the father responsible for the wrongs committed by that person. The petitioner has no active involvement in the offence mentioned in the present FIR.

5. That the petitioner has no connection with Chetan Goyal or with the complainant who has got the said FIR registered. The petitioner neither knows the complainant personally nor has met him prior to the above incident dated 29.06.2023. The name of the petitioner has been falsely added in this FIR in order to extort a compromise out of petitioners disowned son Chetan Goyal. It is pertinent to mention here that the petitioner has disowned his son Chetan Goyal from his

movable and immovable properties and since then has no relation or concern whatsoever with Chetan Goyal. In this regard, petitioner has executed an affidavit on 19.04.2022 and also got published a notice for disowning in local newspaper on 20.04.2022. Copy of the same is annexed as Annexure P-3 & P-4.”

9. It would be appropriate to refer to the following portions of the reply, which read as follows:

“5. That during investigation it was found that accused Chetan Goyal was residing with the present petitioner in the same house and the petitioner was having full knowledge about the fraudulent receipt of amount of Rs.22,80,000 from the complainant from the very first day and petitioner assisted the Chetan Goyal to buy time from the complainant to misappropriate the abovesaid amount.

6. That the petitioner has filed the present petition on the ground that his son Chetan Goyal has already been disowned by him and his wife Amita Goyal vide affidavit dated 19.04.2022(Annexure P-3) and notice dated 20.04.2022 (Annexure P-4) and they have no relation with him. It is respectfully submitted that during investigation, investigating officer obtained the statement of account number 33143419707 of the Chetan Goyal in the State Bank of India and which demonstrated various transactions between the Amita Goyal wife of the present petitioner and Thetan Goyal. The main accused Chetan Goyal had transferred the arious amounts in favour of Amita Goyal and she also transferred arious amounts to the Chetan Goyal. As per bank statement from 1.10.2022 to 06.03.2024 there are transactions of amount Rs. 6,23,100 between the main accused Chetan Goyal and Amita Goyal wife of the present petitioner who is residing with him. The copy of statement of account of the Chetan Goyal, dated 01.10.2022 to 06.03.2024 is annexed herewith as Annexure R-1.”

10. A perusal of the above points out that the petitioner was not present at the time of assurances given by Chetan Goyal and when receiving money from the complainant, Sukhwinder. The petitioner did not introduce his son, Chetan Goyal, to the complainant. If he gets involved later on, then that is normal for any father in the culture prevailing in this region, but that alone would not indicate any prior malicious intent or conspiracy with the main accused, Chetan Goyal.

11. Pre-trial incarceration cannot be a replica of post-trial sentencing. It is neither a case for custodial interrogation nor pre-trial incarceration. Although the evidence might be prima facie sufficient or insufficient to launch prosecution or frame charges, this Court is not considering the evidence at that stage but is analyzing it for the bail stage.

12. The petitioner was granted interim protection, and during the interregnum, there is no allegation that he had intimidated the witnesses, hampered the investigation, or, despite being called to join the investigation, did not appear before the investigator.

Given the above, there would be no justification to discontinue the interim protection,

which is made absolute subject to the petitioner complying with the terms of the bail order and the following additional conditions.

13. **Petition allowed** in terms mentioned above. All pending applications, if any, stand disposed of. Interim order dated 05.01.2024 is made absolute. This order is subject to the petitioner's complying with the following terms.

14. 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)	

15. The petitioner is directed to join the investigation within seven days and as and when called by the Investigator. The petitioner shall be in deemed custody for Section 27 of the Indian Evidence Act. 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.

16. 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.

(ANOOP CHITKARA)
JUDGE

27.09.2024
Jyoti Sharma

Whether speaking/reasoned: Yes
Whether reportable: No.