

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

Bunty @ Waris

...Petitioner

Versus

State of Punjab and others

...Respondents

CORAM: HON'BLE MR. JUSTICE ANOOP CHITKARA

Present: Mr. Amandeep Singh Manaise, Advocate
for the petitioner.

Mr. Akshay Kumar, A.A.G., Punjab.

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ANOOP CHITKARA, J.

FIR No.	Dated	Police Station	Sections
34	06.10.2024	NRI Gurdaspur, District Gurdaspur	406, 420, 465, 468, 471, 34 IPC and 24 of Immigration Act

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 10 of the bail petition, the accused declares that he has no criminal antecedents.
3. The facts and allegations are being taken from translated version of FIR, which reads as follows:

“One complaint UID No.2409186 dated 09.09.2024 was sent by Punjab Singh son of Desa Singh resident of village Dullat, Tehsil Batala, District Gurdaspur on 09.09.2024 through email to the office of ADGP NRI Wing, SAS Nagar, the subject matter of which is as follows: Worthy ADGP NRI Wing. Phase 7. Mohali. Complaint against Bunty mobile No.98764-06899 son of not known resident of village Sathiali (2) Suraj mobile No.98722-27500 son of not known resident of Sathiali, Tehsil and District Gurdaspur for cheating of Rs.2,80,000/- on the pretext of sending us abroad and for taking legal action, lodging of FIR and getting returned our money from them. Sir, it is submitted that I am Punjab Singh son of Desa Singh resident of village Dullat, PS Ghaine Ke Bangar, Tehsil Batala, District Gurdaspur. Above said Bunty and Suraj both are residents



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of village Sathiali, Tehsil and District Gurdaspur and they are doing the work of travel agents for sending people abroad and they have opened an office in Dhariwal. On coming to know, I contacted these travel agents and they demanded a sum of Rs. 1,50,000/- for sending me to Russia and the deal was fixed at Rs.1,40,000/-. (2) My brother-in-law Daljit Singh son of Jagir Singh resident of Amritsar also told me that he wants to go abroad and asked me to help him, upon which I talked to the above said agents for both of us and the deal was fixed for Rs.2,80,000/- for both. (3) That the above said agents were paid Rs.40,000/- on 30.10.2023 and Rs.1 Lac through google pay on 31.10.2023. Apart from this, Rs.1,40,000/- was given in cash in November 2023 in their office in the presence of Daljit Singh son of Jagir Singh resident of Amritsar and Desa Singh son of Makhan Singh resident of village Dullat. The above said agents promised to send me and my brother-in-law abroad (Russia) within 2 months. (4) After some time, the above said agents gave us visa but on inquiry they were found to be fake and the tickets were also found to be fake. Thereupon we asked the above said agents to return our money but they lingered on. The above said agents returned Rs.80,000/- through google pay but are not returning the balance amount and on our repeated requests, they have refused to return the money. The above said persons had given cheque No.063289 for Rs.2,80,000/- of Axis Bank, Dhariwal account No.922020001859660 but there is no amount in the Bank and they have cheated us and given us a cheque with bad intention. Therefore, I request before you that above said agents namely Bunty and Suraj have cheated us of Rs.2,80,000/- on the pretext of sending us abroad, gave us fake visa and tickets and wrong cheque, for which required legal action be taken against them and FIR be registered and our money be got returned. I shall be very thankful to you. Date 05.09.2024. Yours faithfully Punjab Singh son of Desa Singh."

4. The petitioner's counsel prays for bail by imposing any stringent conditions and contends that pre-trial incarceration would cause an irreversible injustice to the petitioner and their family.

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

6. Counsel for the petitioner submits that out of the alleged receipt of Rs.1,40,000/-, an amount of Rs.80,000/- was already returned and demand draft of remaining Rs.60,000/- has been handed over to Investigator in the name of complainant as directed by this Court vide order dated 07.03.2025.

7. Given the amount returned by the petitioner, he makes out a case for bail.

8. 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. An analysis of the above does not justify custodial interrogation or pre-trial incarceration.



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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 Ilaka 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. In case the Investigator/Officer-In-Charge of the concerned Police Station arraigns another section of any penal offense in this FIR, and if the new section prescribes a maximum sentence that is not greater than the sections mentioned above, then this bail order shall be deemed to have also been passed for the newly added section(s). However, suppose the newly inserted sections prescribe a sentence exceeding the maximum sentence prescribed in the sections mentioned above; then, in that case, the



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Investigator/Officer-In-Charge shall give the petitioner notice of a minimum of seven days, providing an opportunity to avail the remedies available in law.

15. This bail is conditional, and the foundational condition is that if the petitioner indulges in any non-bailable offense, the State shall file an application for cancellation of this bail before the Sessions Court, which shall be at liberty to cancel this bail.

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

17. 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.

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

(ANOOP CHITKARA)
JUDGE

11.03.2025
Jyoti Sharma

Whether speaking/reasoned: Yes
Whether reportable: No.