

CRM-M-568-2025

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-568-2025
Reserved on: 13.02.2025
Pronounced on: 20.02.2025

Balwinder Singh ...Petitioner

Versus

State of Punjab ...Respondent

CORAM: HON'BLE MR. JUSTICE ANOOP CHITKARA

Present: Mr. Kuldeep S. Saini, Advocate
for the petitioner.

Mr. Jasjit Singh, DAG, Punjab.

ANOOP CHITKARA, J.

FIR No.	Dated	Police Station	Sections
28	02.03.2023	Mullanpur Garibdas, District SAS Nagar	420 & 120-B IPC (465, 467, 468, 471 IPC added vide DDR No.29 dated 04.05.2023)

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 the bail petition, petitioner is silent about criminal antecedents, however as per paragraph 13 of the status report, the accused has the following criminal antecedents:

Sr. No.	FIR No.	Date	Offenses	Police Station
1	25	11.03.2015	406, 419, 420, 465, 467, 468, 471, 474, 120-B IPC	Mullanpur Garibdass, District SAS Nagar
2	178	03.12.2015	419, 420, 467, 468, 471, 120-B IPC	Sadar Kurali, District SAS Nagar
3	122	15.11.2019	406, 420, 120-B IPC	Kotwali

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

“That with regard to the subject matter of the present petition, it is submitted that case/FIR No 28 dated 02.03.2023 u/s 420, 120-B IPC (465, 467, 468, 471 IPC added later on) was registered at PS Mullanpur,

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District SAS Nagar against Hansraj, Balwinder Singh s/o Hansraj (petitioner), Balwinder Singh s/o Gurmail Singhand Halka Patwari Satpal after preliminary enquiry into the complaint bearing No. 6062/S/SSP dated 06.09.2021 received from Deepak Verma in the office of the then SSP, District SAS Nagar by the then DSP, Sub Division Kharar-II, District SAS Nagar (Mohali), agreement on the said report of the SP (Rural), District SAS Nagar and approval of the same by the then SSP, District SAS Nagar on the allegations that he purchased the land measuring (2-7) comprising in Khasra No.751 situated at village Mullanpur Garibdass vide vasika no.3029 dated 10.03.2015 from Hans Raj and this land deal was materialized through Balwinder Singh s/o Gurmail Singh, who personally knew the aforesaid seller. It has been further alleged that the Balwinder Singhs/o Gurmail Singh was working as Assistant with the Patwari of village Mullanpur Garibdass and reposing faith upon him, complainant has purchased the aforesaid land through agreement to sell dated 05.01.2015 by making payment of earnest money amounting to Rs.5,00,000/- and the stamp papers for this agreement to sell dated 05.01.2015 were also purchased through Balwinder Singh s/o Gurmail Singh. It has been further alleged that when the complainant applied through online mode to obtain the fardjamabandi in the year 2018 for getting registered the sale deed, then the complainant came to know about that this khasra no.751 (2 Bigha-7 Biswa) is Shamlat Land, whereas Balwinder Singh s/o Gurmail Singh and Hans Raj, in connivance with each other had prepared the forged and fabricated fardjamabandi with an intent to cheat him and when the complainant asked Balwinder Singh s/o Gurmail Singh about the same, he has not given any satisfactory reply. It has been further alleged that the aforesaid accused had earlier shown the complainant the aforesaid forged and fabricated fardjamabandi as per which, the land in question is shown to be owned and possessed by the aforesaid co-accused Hans Raj and this forged and fabricated fardjamabandi is available in the Tehsil record as the same was annexed by the complainant with the sale deed papers at the time of getting registered the sale deed of the aforesaid land in question in his name as purchaser and in the name of the co-accused Hans Raj as seller. Accordingly, appropriate legal action was sought 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.

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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:

“That the role attributed to the petitioner in the present case/FIR No. 28 (supra) is that the petitioner has been specifically named in the present case/FIR No. 28 (supra). It is submitted that the petitioner and his co-accused are accused of creating a forged Jamabandi with the conspiracy of Balwinder Singh s/o Gurmail Singh. Relying on this fraudulent document, the petitioner and his co-accused entered into an agreement to sell the shamlat land, measuring 2 bighas and 7 biswas, to the complainant for Rs. 5 lakhs as earnest money. They are further alleged to have intentionally altered the Jamabandi to deceive the complainant resulting in the unlawful registration of the land in the complainant's name. Furthermore, it is submitted that the petitioner is a habitual offender, with multiple cases of a similar nature filed against him, the details of which are outlined below.”

REASONING:

7. Perusing the evidence against the petitioner, it clearly point towards his involvement and petitioner has disappointed someone's trust. However, this Court wants to give one opportunity to petitioner to mend his ways and to live his livelihood in honest manner.

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, as evidence is documentary in nature and nothing is required to recover from the petitioner.

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.

10. 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.

CONDITIONS:

11. 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 Arresting Officer, and if the matter is before a Court, then the

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concerned Court and due to unavailability before any nearest Ilaqa 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.

12. 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)	

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

15. 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 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.

16. It is clarified that if the petitioner violates any bail condition, the State and/or the victim may file an application for bail cancellation before the trial court, which shall be competent to cancel the bail or add more conditions. Furthermore, if the petitioner moves for deletion or dilution of any bail conditions, the trial court is empowered to do so.

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17. **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 have the liberty to cancel this bail.**

18. The concerned trial court is authorized to delete, modify, or relax any of the above conditions and shall be competent to do so in accordance with the law.

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

20. 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.

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

(ANOOP CHITKARA)
JUDGE

20.02.2025
anju rani

Whether speaking/reasoned: Yes
Whether reportable: No.