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2025:PHHC:136274



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**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

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Date of decision: September 29, 2025

Amit Malhotra

....Petitioner

versus

State of Punjab

....Respondent

CORAM: HON'BLE MR. JUSTICE SUMEET GOEL

Present:- Mr. Jaininder Saini, Advocate and
Mr. Navdeep Singh, Advocate for the petitioner.

Mr. Jaypreet Singh, DAG Punjab.

Mr. Kanwaljeet Singh, Advocate for the complainant.

SUMEET GOEL, J. (ORAL)

Present petition has been filed under Section 483 of Bharatiya Nagarik Suraksha Sanhita, 2023 (for short 'BNSS') for grant of regular bail to the petitioner in case bearing FIR No.115 dated 06.09.2024, registered for offences punishable under Sections 420, 120-B of the Indian Penal Code, 1860 (for short 'IPC'), at Police Station Model Town, District Ludhiana.

2. The gravamen of the FIR in question against the petitioner is that complainant, namely, Jashandeep Singh alleged that, on the inducement of the petitioner and his co-accused, he handed over a sum of ₹15,10,000/- to the petitioner for the purpose of securing a work permit to the UK. However, he later discovered that the petitioner had neither initiated any

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process for obtaining the work permit nor returned the said amount. Consequently, the petitioner and his co-accused are alleged to have duped the complainant of ₹15,10,000/-.

3. Learned counsel for the petitioner has iterated that the petitioner was arrested on 07.09.2024. Learned counsel has further iterated that the petitioner has been falsely implicated into the FIR in question. Learned counsel has further argued that the petitioner was working as an immigrant consultant and was only advising/ helping the complainant to go abroad. Learned counsel also iterated that the investigation in the case is complete and no effective recovery is to be made from the petitioner. Thus, regular bail is prayed for.

4. Learned State counsel has opposed the present petition by arguing that the allegations raised against the petitioner are serious in nature and, hence, he ought not to be extended concession of regular bail. Learned State counsel seeks to place on record the custody certificate dated 28.09.2025 in the Court today, which is taken on record.

4.1. Learned counsel for the complainant has vehemently opposed the grant of regular bail to the petitioner by arguing that there are direct/ serious allegations against the petitioner, and the money in question is yet to be recovered from him. Learned counsel has further iterated that the petitioner is a habitual offender and thus, he ought not to be extended the concession of regular bail. On the strength of these submissions, dismissal of the present petition is entreated for.

5. I have heard counsel for the rival parties and have gone through the available records of the case.

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Before delving into the matter further, it would be germane to refer herein the case law governing the issue in hand:

“5.1 Gudikanti Narasimhulu and others vs. Public Prosecutor, High Court of Andhra Pradesh AIR 1978 SUPREME COURT 429, relevant whereof reads as under:

“10. The significance and sweep of Article 21 make the deprivation of liberty a matter of grave concern and permissible only when the law authorising it is reasonable, even-handed and geared to the goals of community good and State necessity spelt out in Article 19. Indeed, the considerations I have set out as criteria are germane to the constitutional proposition I have deduced. Reasonableness postulates intelligent care and predicates that deprivation of freedom- by refusal of bail is not for punitive purpose but for the bi-focal interests of justice-to the individual involved and society affected.

11. We must weigh the contrary factors to answer the test of reasonableness, subject to the need for securing the presence, of the bail applicant. It makes sense to assume that a man on bail has a better chance to prepare or present his case than one remanded in custody. And if public justice is to be promoted, mechanical detention should be close to ours, the function of bail is limited, 'community roots' of the, applicant are stressed and, after the Vera Foundation's Manhattan Bail Project, monetary suretyship is losing ground. The considerable public expense in keeping in custody where no danger of disappearance or disturbance can arise, is not a negligible consideration. Equally important is the deplorable condition, verging on. the inhuman, of our sub-jails, that the unrewarding cruelty and expensive custody of avoidable incarceration makes refusal of bail unreasonable and a Policy favouring release justly sensible.

12. A few other weighty factors deserve reference. All deprivation of liberty is validated by social defence and individual correction along an anti-criminal direction. Public justice is central to the whole scheme of bail law. Fleeing justice must be forbidden but punitive harshness should be minimised. Restorative devices to redeem the man, even, through community service, meditative drill, study classes or other resources should be innovated, and playing foul with public peace by tampering with evidence, intimidating witnesses or committing offence while on judicially sanctioned 'free enterprise,' should be provided against. No seeker of justice shall play confidence tricks on the court or community. Thus, conditions may be hung around bail orders, not to cripple but to protect. Such is the holistic jurisdiction and humanistic orientation invoked by the judicial discretion correlated to the values of our constitution.”

5.2. Further, the Hon’ble Supreme Court in a judgment titled as Gurcharan Singh vs. State (UT of Delhi) 1978 (1) SCC 118, has held as under:

“Where the granting of bail lies within the discretion of the court, the granting or denial is regulated, to a large extent, by the facts and circumstances of each particular case. Since the object of the detention or imprisonment of the accused is to secure his

*appearance and submission to the jurisdiction and the judgment of the **court**, the primary inquiry is whether a recognizance or bond would effect that end.”*

5.3 Furthermore, the Hon’ble Supreme Court in a judgment titled as **Sanjay Chandra vs. CBI (2012) 1 SCC 40**, *has held as under:*

“21. In bail applications, generally, it has been laid down from the earliest times that the object of bail is to secure the appearance of the accused person at his trial by reasonable amount of bail. The object of bail is neither punitive nor preventative. Deprivation of liberty must be considered a punishment, unless it can be required to ensure that an accused person will stand his trial when called upon. The courts owe more than verbal respect to the principle that punishment begins after conviction, and that every man is deemed to be innocent until duly tried and duly found guilty.

22. From the earliest times, it was appreciated that detention in custody pending completion of trial could be a cause of great hardship. From time to time, necessity demands that some un-convicted persons should be held in custody pending trial to secure their attendance at the trial but in such cases, “necessity” is the operative test. In this country, it would be quite contrary to the concept of personal liberty enshrined in the Constitution that any person should be punished in respect of any matter, upon which, he has not been convicted or that in any circumstances, he should be deprived of his liberty upon only the belief that he will tamper with the witnesses if left at liberty, save in the most extraordinary circumstances.”

6. The petitioner was arrested on 07.09.2024, whereinafter, the investigation was carried out and the challan has been presented on 05.11.2024. Total 07 prosecution witnesses have been cited, but, none has been examined till date. It is not in dispute before this Court that the charges are yet to be framed. It is thus, indubitable that conclusion of the trial will take long time. The factum of the petitioner being release on interim bail on account of his getting the matter settled cannot be construed as an impediment for granting bail to him in view of the factual milieu of the case in hand. The rival contentions raised at Bar give rise to debatable issues, which shall be ratiocinated upon during the course of trial. This Court does not deem it appropriate to delve deep into these rival contentions, at this stage, *lest* it may prejudice the trial. Nothing tangible has been brought

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forward to indicate the likelihood of the petitioner absconding from the process of justice or interfering with the prosecution evidence.

6.1. As per custody certificate dated 28.09.2025 filed by the learned State counsel, the petitioner has already suffered incarceration for a period of 07 months and 02 days. Further, as per the said custody certificate the petitioner is stated to be involved in other FIR(s). However, this factum cannot be a ground sufficient by itself, to decline the concession of regular bail to the petitioner in the FIR in question when a case is made out for grant of regular bail *qua* the FIR in question by ratiocinating upon the facts/circumstances of the said FIR. Reliance in this regard can be placed upon the judgment of the Hon'ble Supreme Court in *Maulana Mohd. Amir Rashadi v. State of U.P. and another, 2012 (1) RCR (Criminal) 586*, a Division Bench judgment of the Hon'ble Calcutta High Court in case of *Sridhar Das v. State, 1998 (2) RCR (Criminal) 477* & judgments of this Court in CRM-M No.38822-2022 titled as *Akhilesh Singh v. State of Haryana*, decided on 29.11.2021, and *Balraj v. State of Haryana, 1998 (3) RCR (Criminal) 191*.

Suffice to say, further detention of the petitioner as an undertrial is not warranted in the facts and circumstances of the case.

7. In view of above, the present petition is **allowed**; the interim order dated 04.02.2025 granting interim bail to the petitioner is made **absolute**, subject to his furnishing bail/surety bonds to the satisfaction of the Ld. Concerned CJM/Duty Magistrate. However, in addition to conditions that may be imposed by the concerned CJM /Duty Magistrate, the petitioner shall remain bound by the following conditions:

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- (i) The petitioner shall not mis-use the liberty granted.
- (ii) The petitioner shall not tamper with any evidence, oral or documentary, during the trial.
- (iii) The petitioner shall not absent himself on any date before the trial.
- (iv) The petitioner shall not commit any offence while on bail.
- (v) The petitioner shall deposit his passport, if any, with the trial Court.
- (vi) The petitioner shall give his cellphone number to the Investigating Officer/SHO of concerned Police Station and shall not change his cell-phone number without prior permission of the CJM/ Duty Magistrate.
- (vii) The petitioner shall not in any manner try to delay the trial.

8. In case of breach of any of the aforesaid conditions and those which may be imposed by concerned CJM/ Duty Magistrate as directed hereinabove or upon showing any other sufficient cause, the State/complainant shall be at liberty to move cancellation of bail of the petitioner.

9. Ordered accordingly.

10. Nothing said hereinabove shall be construed as an expression of opinion on the merits of the case.

11. Since the main case has been decided, pending miscellaneous application, if any, shall also stands disposed off.

(SUMEET GOEL)
JUDGE

September 29, 2025

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Whether speaking/reasoned: Yes/No

Whether reportable: Yes/No