

CRM-M-1987-2025

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

CRM-M-1987-2025
Reserved on: 18.02.2025
Pronounced on: 28.02.2025

Harbans Singh ...Petitioner

Versus

State of Punjab ...Respondent

CORAM: HON'BLE MR. JUSTICE ANOOP CHITKARA

Present: Mr. Amit Arora, Advocate
for the petitioner.

Mr. Sukhdev Singh, AAG, Punjab.

ANOOP CHITKARA, J.

FIR No.	Dated	Police Station	Sections
173	18.05.2023	Islamabad, District Amritsar	82 of Registration 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 19 of the bail petition, the accused declares that he has no criminal antecedents.

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

“4. That it is submitted that as per the report furnished by SHO PS Islamabad, Amritsar, registration of the present case FIR No. 173 dated 18.05.2023 is a consequence of the thorough enquiry conducted by the then Assistant Commissioner of Police, Licensing & Security, Amritsar, then by the then Assistant Commissioner of Police, Central, Amritsar which was further commented upon by Mehtab Singh, IPS the then Additional Deputy Commissioner of Police, City-I, Amritsar qua the representation bearing No. 108726-PGD dated 01.02.2023 given by the complainant Prabhjot Singh. Based on the enquiry conducted, the following facts were revealed:

i) The complainants Prabhjot Singh and Harpreet Singh runs cloth shop at Putlighar Market. They had purchased one kothi (house) bearing No. 9, Preet Vihar, Chheharta

road, Amritsar through their known Jagdish Singh from Hardeep Kaur wife of the present petitioner Harbans Singh.

ii) The deal to purchase this kothi was being made in Rs. 70 Lac. The petitioner Harbans Singh told them that he was to go abroad. Hence, if the payment is made within one month then he would reduce the price by Rs. 02 Lac. Prabhjot Singh complainant agreed to this offer. The petitioner Harbans Singh had told them that the sale deed of this property was in the name of his wife Hardeep Singh. There was neither any case nor any Bank loan etc. against this property.

iii) Hardeep Kaur had executed an agreement of this property on 28.06.2022 in Rs. 68 Lac in the name of the above said Prabhjot Singh, which was witnessed by the above said Jagdish Singh. Two cheques amounting to Rs. 07 Lac were given to Hardeep Kaur in presence of the present petitioner Harbans Singh, by Prabhjot Singh and Harpreet Singh and the date for execution of sale deed was fixed for 10.07.2022.

iv) The complainants availed a loan of Rs. 28 Lac from Kotak Mahindra Bank and arranged for remaining amount. Thereafter as per conditions of the agreement, they had paid Rs. 68 Lac to the present petitioner Harbans Singh and his wife Hardeep Kaur on 18.07.2022 and had got executed sale deed of this property in Rs. 35 Lac from Hardeep Kaur wife of the present petitioner Harbans Singh in the name of Prabhjot Singh and Harpreet Singh. Jagdish Singh had received his commission Rs. 70,000/- each from both the parties.

v) The complainant Prabhjot Singh along with his family started living in this kothi since December 2022. On 16.01.2023, Bailiff of the Court along with his team came to this kothi, who showed order of the Court and asked the complainant to vacate the kothi but the complainant told the Bailiff that they had purchased this kothi just a few months before. Therefore, the Bailiff asked them to appear before the learned Court.

vi) During enquiry, it came forth that, with respect to the property in question, one case titled as [Sulphacid Industries Ltd. A joint Stock Co. Incorporated under the Companies Act, 1956 and having its registered office at G.T road, Shahbad Markand Distt. Kurukshetra Haryana Vs Gurbach Singh etc.] was filed in the Court of Sh. Karnuesh Kumar Civil Judge Junior Division, Amritsar, which was dismissed. Thereafter an appeal was filed against this order by the Firm before the Court of Sh. Rajesh Kumar, learned Additional District Judge, Amritsar, wherein the order dated 02.01.2012 was passed in favour of this firm.

vii) This plot No. 38, Guru Har Rai Avenue was purchased on 23.01.1985 from Hans Raj S/o Shambu Nath R/o Connaught Place, New Delhi by Gurbachan Singh S/o Madho Singh, who had sold this land on 19.09.2001 to Gurjit Singh and his mother Paramjit Kaur. Gurjit Singh and his mother Paramjit Kaur had further sold this land on 17.02.2004 to the present petitioner Harbans Singh, his wife Dalbir Kaur and sons Arwind Singh and Rajvir Singh.

viii) Dalbir Kaur and Arwind Singh had given their power of attorney in favour of the present petitioner Harbans

Singh and as per order of the Ld. Judge of the Guardian Court, Amritsar, the present petitioner Harbans Singh was appointed as guardian of Rajbir Singh. Thereafter, the present petitioner Harbans Singh had transferred ownership of this land in favour of his second wife Hardeep Kaur on 17.10.2018.

ix) The present petitioner Harbans Singh and Hardeep Kaur lived in this house for many years and Jagdish Singh was also living at house No. 38 Guru Har Rai Avenue, Amritsar since 2014. They all had complete knowledge that Court cases are pending with respect to many houses and plots falling in the area Guru Har Avenue Colony and they also knew that the Court case qua the above said house No. 38, Guru Har Rai Avenue, Amritsar is pending but the present petitioner Harbans Singh and Hardeep Kaur did not become a party in this case and when they came to know that the case qua the house in question has been decided in favour of other party by the Court, then they despite having complete knowledge about it, in connivance with Jagdish Singh kept Prabhjot Singh and Harpreet Singh in dark and they sold the above said kothi No. 38 Guru Har Rai Avenue, Amritsar in Rs. 68 Lac to the complainant Prabhjot Singh and Harpreet Singh.”

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 status report.

6. It would be appropriate to refer to the following portions of the status report, which read as follows:

“ROLE OF THE PETITIONER

11. That it is submitted that the present petitioner-accused Harbans Singh has played the main and pivotal role in commission of crime as it is the present petitioner-accused Harbans Singh who had made a deal with the complainant for selling the property in question to them. The entire sale consideration was received by the petitioner Harbans Singh and he had got sale deed of the property in question executed from his second wife Hardeep Kaur; who was then living with the present petitioner Harbans Singh having cordial relationship.”

7. 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.

8. The Police did not arrest the petitioner; if they intended to arrest the petitioner, it was not impossible.

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 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. 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.

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

18. 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.

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

(ANOOP CHITKARA)
JUDGE

28.02.2025
Jyoti Sharma

Whether speaking/reasoned: Yes
Whether reportable: No.