

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-3820-2025 (O&M)
Reserved on: 03.03.2025
Date of Pronouncement: 12.03.2025

Jarnail Singh Bajwa
.....Petitioner(s)
Versus
State of Punjab
.....Respondent(s)

CORAM: HON'BLE MR. JUSTICE ANOOP CHITKARA

Present: Mr. Nikhil Ghai, Advocate
for the petitioner.

Mr. Akshay Kumar, AAG, Punjab.

Mr. Deepak Sharma, Advocate
for the complainant.

ANOOP CHITKARA, J. (Oral)

FIR No.	Dated	Police Station	Sections
353	11.10.2024	City Kharar, District SAS Nagar, Mohali	406, 420, 467, 471 IPC

1. The petitioner incarcerated in the FIR captioned above came before this Court under Section 483 of Bharatiya Nagarik Suraksha Sanhita, 2023, [BNSS], seeking regular bail.
2. Although in paragraphs no.9 to 13, the petitioner-accused states that many complaints/FIRs have been registered against him and he is in the process of setting the same, but in paragraph 19 of the bail petition, he declares that he has no criminal antecedents. However, as per paragraph 11 of the reply filed on behalf of the complainant, it is stated that the petitioner is involved in hundreds of such cases. As per the custody certificate also, the petitioner has massive criminal history.
3. The facts and allegations are being taken from the translated version of the FIR, which reads as follows:

FIR NO 0353, DATED 11.10.2024 P.S. KHARAR, DISTT S.A.S. NAGAR UNDER SECTION 406,420,467,471, IPC.
Complainant- Manjit Kaur W/o late Sh. Karam Singh R/o Vill Abheypur, Tehsil Kharar, P.S. Sadar Kharanali MD Mis Bagar safed Jarnail Singh Bajwa S/o Late Sh. Bishan Singh R/o H.No.1002 and 1003 Sector 70, SAS Nagar Mohali MD M/s Bajwa Developers Ltd. Sunny Enclave Kharar, Tehsil Kharar, Distt. SAS Nagar, Mohali, Kapil Chechi S/o Lal Chand R/o Adarsh Nagar, Derabassi, Tehsil

Derabassi, Distt. SAS Nagar Mohali, Sukhdev Singh Bajwa @ Sunny Director M/s Bajwa Developers Ltd Sunny Enclave Kharar S/o Jarnail Singh Bajwa, Tehsil Kharar, Dist. SAS Nagar Mohali, Bhupinder Singh Personal P.A. of Jarnail Singh Bajwa, M.D. M/s Bajwa Developers Ltd. Sunny Enclave Kharar, Tehsil Kharar, Distt. SAS, The then concerned Halka Patwari of Vill. Jhungian, Tehsil Kharar, Hadbast No.29, Distt. SAS Nagar, Mohali and The then concerned Sub Registrar Kharar, Distt. SAS Nagar, Mohali. CIS NO. CRM-537-2024 U/S 156(3) CrPC Sh. Gurmehtab Singh, PCS judicial Magistrate First Class, This order will dispose of an application / complaint filed by the complainant/ applicant under Section 156(3) of Criminal Procedure Code for issuance of directions to the respondents No.1 & 2 to registered the FIR under Sections 406/420/467/468/471 of the Code of Criminal Procedure read with Section 120-B of IPC against private respondent No.3 to 8, or to treat the present complaint. 2. In brief, the facts of the present application/complaint are that the complainant is permanent resident of above said address. It is further submitted that the respondent no. 3 who is MD of M/s Bajwa Developers Ltd. enter into agreement to sell one showroom at SCO no.1112 measuring 62.22 sq. Yds. Situated at Hill View Market, Sector 125, Sunny Enclave Kharar through GPA respondent no. 4 to the complainant. That the respondent no. 3 to 6 in connivance with each other shown the site plan of the above said showroom as they was given assurance to the complainant that the said showroom is free from all encumbrances and there is no loan from any bank, agency or firm in the above said Khasra no. of the showroom. It is further submitted that the respondent no, 4 who is GPA of respondent no.3 and respondent 4 & 5 who also director, P.A and respondent no. 3 selling and purchasing the property in the name of firm namely M/s Bajwa Developers Ltd. It is further submitted that respondents no. 3 to 6 also given assurance to the complainant that there is no dispute with regard to the property of SCO no. 1112. It is pertinent to mention here that the respondent no. 3 to 6 are also showing the complainant the map of the SCO no 1112 and they were saying to the complainant that the above said showroom is approved from GAMADA and also from Municipal Committee Kharar. It is further submitted that the respondent no.4 who is GPA of respondent no.3 executed receipt of full and final payment of above said SCO with other properties vide receipt dated 07.04.2022 and executed the sale deed of above said SCO vide sale deed dated 06.09.2022. It is further submitted that after 4/5 months the complainant and his son namely Arvinder Singh came to know that the respondent no. 3 to 6 in connivance each other had committed a fraud with the complainant by executing the sale deed of above said SCO no. 1112 on the basis of false frivolous documents prepared by respondent no. 3 to 6 just with the motive to grab the amount from the complainant. It is pertinent to mention here that from the complainant came to know that the respondent no. 3 to 6 have executed a wrong sale deed of false and wrong khasra nos, of the land whereas the Khasra no of GPA, mentioned in the site plan, Khasra no. mentioned in the sale deed are totally different from each other. It is further submitted that the complainant scrutinizing the revenue record and came to know that Khara no qua the above said properties does not match with each other, It is pertinent to mention here that respondent no. 3 to 6 have mentioned other khasra nos. in the attorney and different Khara nos in regularization certificate issued by the local govt. and Khsra nos. of SCO no.1112 situated at Village Jhungian are different from the attorney and registration certificate, even the complainant was shocked when the complainant scrutinizing the Khara nos. mentioned the sale deed from where she came to know that the respondent no. 3 to 6 with the motive to Cheat commit fraud with the complainant have mentioned different Khara nos. in different certificate issued by the respondent no. 3 to 6. It is further submitted that while executing the sale deed in favour of complainant the respondent no. 3 to 8 have not passed the site plan from the municipal committee however the same was necessary as per the guidelines of the government that at the time of executed sale deed the site plan of the SCO no. 1112 must have to be passed from the municipal committee, but the respondent no. 3 to 8 violated the direction of the government and have cheated the complainant. It is further submitted that the SCO no. 1112 given by respondent

no. 3 to 6 to the complainant is not depict in the original site plan of Hill View market, but the respondent no. 3 to 6 have shown false and fabricated site plan to the complainant where the said SCO 1112 has been shown adjoining to 200 ft. road of Hill View Market. It is further submitted that respondent no. 3 to 6 use to commit got the innocent peoples by selling above said fabricated land to the innocent peoples and they have cheated number of peoples by committing fraud with them and lotted, grab crores of the rupees from innocent peoples. It is further submitted that while executing the GPA/full and final receipt and executing the sale deed in favour of complainant respondent no. 3 to 6 have full knowledge that they are preparing false and frivolous documents in favour of the complainant just with the motive to grab the amount from the complainant and they have prepared all false document by mentioning the different Khasara no. of SCO 1112 and by showing different locations of SCO no. 1112 on their fabricated and false site plan which is not match to the approved site plan and also different from site plan of municipal committee Kharar, thus all these above mention facts shows that the respondent no. 3 to 6 use to prepare false and frivolous document for the sale, of the property with the motive to grab cores of rupees from different people and from complainant and in this way they have cheated and commit fraud with the complainant and also prepared false document and they are liable to punished as per law. It is further submitted that the complainant also came to know that the respondent no. 3 to 6 by committing the fraud with the complainant and peoples by allotting the plots and SCO to the different peoples whereby these plots and SCO have already being mortgaged to the Punjab and Sind Bank, Branch Sector-17, Chandigarh, even the plots and SCOs and NDC/ NOC issued by the respondent no. 3 to 6 are false and fabricated and land is already mortgaged with the Punjab and Sind Bank, Branch sector-17, Chandigarh and respondent no. 3 to 6 have already taken cores of Rupees as loan in the said property and even bank is going to sell these properties through E auction and even notice for E auction has already been issued by the Bank however, the people who were residing and constructed their houses and SCOs in these types of properties have no knowledge of E auction thus in this way the respondent no. 3 to 6 are commit fraud by preparing false and fabricated documents and in this way they have cheated the complainant by executing the wrong sale deed and have received sum of Rs. 15,75,000/- from the complainant. It is further submitted that respondent no. 3 to 6 in connivance with revenue officials use to commit fraud with the innocent people by preparing false and frivolous document with the motive to grab the money from the innocent people, it is further to mention here that respondent no.3 has committed a fraud with the number of peoples and he has sold some commercial as well as residential plots to different people and thereafter respondent no. 3 has mortgaged the same land which he has sold earlier to the different people from the Punjab and Sind Bank. Branch Sector-17-B, Chandigarh and taken Rs. 18 Core has loan on the land of other peoples. Thereafter many people have move different application against the respondent no. 3 and on the complaint of Davinder Singh Battra R/o House no. 169A Sector-124, Sunny Enclave Kharar, Distt SAS Nagar Mohali, the police of the police station of City Kharar has registered case against the Jarnail Singh Bajwa who is respondent no. 3 in the present complaint U/s 406/420 of IPC vide FIR NO. 158, Dated 24.05.2023 which shows that respondent no. 3 in connivance with respondent no.4 to 6 use to commit fraud with innocent peoples, just with the motive to grab huge amount from the peoples, the investigation of the above said FIR is still pending It is further submitted that the respondent no. 3 to 6 are committing fraud with number of peoples by allotting the plots and showrooms from the chunk of land which has already been mortgaged with the Punjab and Sind Bank. It is important to mention here that the above said property consisting of booths and SCO's as already been put to E auction by the bank which shows that respondent no. 3 to 6 are playing fraud with the complainant as well as the other peoples. It is further submitted that the respondent no. 3 alongwith respondent no. 4 to 6 are MD, Directors, Personal P A., are influence over the police as well as high officials therefore respondent no. 3 to 6 are continuously committing fraud with the complainant and other peoples due to high handedness,

the police is not taken against respondent no. 3 to 6 despite the application moved by complainant as well by his son Ravinder Singh and Ranbir Singh but respondent no. 3 to 6 are moving freely and complainant has every apprehension that the respondents no. 3 to 6 may caused lost to the complainant as well as to her family. 3.It is respectfully prayed that the direction may kindly be issued respondent no 1 to 2 for proper and fair investigation of the facts mentioned above and direction may kindly be issued to respondent no. 1 & 2 who conduct the proper and fair investigation of the fact mentioned above and direction may also be issued to respondent no. 1 & 2 to registered the FIR U/s 406/420/467/468/471 read with section 120-B of IPC against private respondent no 3 to 8, or to treat the present complaint as complaint and proceed further as per law, in the interest of justice. 4. Heard. File perused. Status report in the present case has been received. The application discloses cognizable offences and police is left with no other discretion except to investigate and police is duty bound to proceed under Section 154 Cr.P.C., even offence is committed beyond jurisdiction. Thus, concerned SHO is directed to record the information as per the terms of Section 154 Cr.P.C and further steps be taken as per law. Accordingly, present application is Allowed and disposed off accordingly. 5. Copy of order be sent to SHO concerned for necessary action. Further copy of FIR be placed on record within 7 days. 6. Application under Section 166-A of IPC for taking legal action against SHO, P.S. City Kharar for knowingly disobeying the direction of law to the prejudice of the applicant for not registering an FIR against Jarnail Singh Bajwa and his accomplices of cognizable offences under Sections 406, 420, 467, 471 of IPC has also been filed. Proceeding under Section 166-A of IPC be registered separately as CRM. Concerned Ahlmad is directed to consign the file in record room. Pronounced in open court Dated: 05.10.2024 (Gurmehtab Singh) Judicial Magistrate 1" Class, Kharar/ PB0473 Upon receiving the orders, the case mentioned above was registered based on the specified offense, and the investigation process was completed. Copies of the FIR are being sent to the Area Magistrate Sahib at Kharar and senior officers via post. A telephonic notification is being sent to the Incharge Control Room, SAS Nagar. The original orders and the FIR have been handed over to ASI Harmander Singh, Badge Number 809/Mohali, for further action. Instructions have been issued to the police station's record clerk to complete the necessary records."

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 as well as counsel for the complainant oppose bail.

6. Counsel for the petitioner submits that he has voluntarily complied with the previous order and has deposited a sum of Rs.2,00,000/- with Poor Patients Welfare Fund, PGIMER, Chandigarh. Moreover, he had also handed over a demand draft of Rs.15 lac, in favour of the complainant, to his counsel, in Court, but he did not accept the same for the reason that the amount which was taken was more. Counsel for the petitioner further submits that they are going to deposit this amount of Rs.15 lac with the trial Court.

REASONING:

7. There is sufficient *prima facie* evidence connecting the petitioner with the alleged crime. However, pre-trial incarceration should not be a replica of post-conviction

sentencing. Per the custody certificate dated 2.3.2025, the petitioner’s total custody in this FIR is 2 months and 20 days and petitioner is ready to repay the alleged amount of Rs.15 lac and undertakes to deposit the same with the trial Court. Given the penal provisions invoked viz-a-viz pre-trial custody, coupled with the *prima facie* analysis of the nature of allegations, undertaking of the petitioner and the other factors peculiar to this case, there would be no justifiability further pre-trial incarceration at this stage.

8. 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.

9. 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 concerned Court and due to unavailability before any nearest Ilaqa Magistrate/duty Magistrate. Before accepting the surety, the concerned Court must be satisfied that if the accused fails to appear, such surety can produce the accused.

10. 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)	

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

12. 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.

13. 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 be at liberty to cancel this bail.

14. Petitioner is directed to comply with his undertaking by 31.3.2025 and deposit the amount of Rs. 15 lac as per the directions of trial Court.

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

16. 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.

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

12.03.2025

AK

(ANOOP CHITKARA)
JUDGE

NOTE: Whether speaking/non-speaking: Speaking
Whether reportable: YES/NO