

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-6529-2025
Reserved on: 10.03.2025
Pronounced on: 19.03.2025

Gurpartap Singh ...Petitioner

Versus

State of Haryana ...Respondent

CORAM: HON'BLE MR. JUSTICE ANOOP CHITKARA

Present: Mr. Rajesh Kapila, Advocate and
Ms. Himani Kapila, Advocate,
for the petitioner.

Ms. Harpreet Kaur, AAG, Haryana.

ANOOP CHITKARA, J.

FIR No.	Dated	Police Station	Sections
207	08.12.2024	Sector-20, Distt. Panchkula	370, 406, 420 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 15 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:

“3. That the brief facts of the present case are that the present FIR was registered on the basis of a complaint given by one Mahender Singh son of Jagan Nath, resident of House No.377, Old Housing Board Colony, Sector 19, Panchkula. The complainant alleged that one Sahil met his son Suresh Kumar and stated to him that his friends Happy and Bittu running Brother Tour and Travels Agency were engaged in sending the people out of the country. The complainant's son Suresh Kumar expressed his desire to go abroad and said Sahil asked for the amount of Rs.12 lakh for this purpose so that said Suresh Kumar @ Jonny may be sent to Germany. The complainant Mahender Singh met Bittu i.e. brother of Happy via said Sahil at his house. Said Bittu assured the complainant that his son Suresh Kumar Jonny would be sent to Germany safely by his brother Happy for

the amount of Ra 12 lakh. On 03.10.2023, said Sahil and Bittu came to the house of the complainant and asked the complainant's son Suresh Kumar @ Jonny to board a flight in the morning from Amritsar. The visa and ticket were sent by Happy. On the next day, said Sahil and Bittu made the complainant's son Suresh Kumar to board the flight for Dubai and the complainant's son Suresh Kumar was sent to Dubai. Said Happy asked Suresh Kumar @ Jonny to stay in some hotel in Dubai who stayed there in the hotel as per the instructions of Happy. On 11.10.2023, the complainant was called to 3B2 Hotel, Mohali by accused Sahil with the amount of Rs.4 lakh and said amount was sent by the complainant through his son Naresh Kumar and his friends Anil Kumar and Jai Parkash Jhangra. At said hotel, accused Bittu, Partap Singh and Sahil met them and the complainant's son Naresh Kumar handed over the amount of Rs.4 lakh to accused Bittu at the instructions of Sahil. After some time, accused Happy asked to arrange the remaining amount of Rs.8 lakh so that the complainant's son may be sent forward. On 29.11.2023, the complainant made a call to accused Sahil asking him to receive the remaining amount of Rs.8 lakh. The accused persons Sahil and Partap Singh came to House No.1, HUDA Colony, Sector-19, Panchkula and at the instructions of Happy, the complainant handed over the amount of Rs.8 lakh to accused Sahil and Partap Singh. After some time, the complainant's son Suresh Kumar @ Jonny was sent to Morocco by accused Happy. Subsequently, the complainant's son was sent to Belarus. Despite requests of the complainant, the complainant's son was neither sent to Germany nor the amount paid by the complainant was returned to him.

It is on the basis of the allegations as summarized above that the instant FIR came to be registered u/s 406, 420, 370 of IPC and Section 24 of Immigration Act, 1983 at PS Sector-20, Panchkula."

4. The petitioner's counsel submits that the petitioner has been falsely implicated in the case with no substantive role in the alleged fraud. The only reference to the petitioner in the FIR is that he was present when the complainant handed over Rs.8 lakhs. There is no independent witness proving that the petitioner was involved in the planning or execution of the alleged offence. Furthermore, at the relevant time, the petitioner was pre-occupied with personal hardships with the medical issues of his father due to an accident. He further submits that the petitioner's wife is pregnant of 23 weeks and she need proper care and diet and apart from the petitioner, there is no responsible person to look after her.

5. 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 his family.

6. The State's counsel opposes bail and refers to the status report.

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

"11. That the petitioner is the person who met the complainant's son Naresh Kumar and his friend in 3-B-2 Mohali Hotel when they went there with the amount of Rs.4 lakh which was handed over by the complainant's son Naresh Kumar to co-accused Jitender @ Bittu at the instructions of co-accused Sahil. Again, the petitioner Gurpartap Singh went to complainant's house Sector-19, HSVP, Panchkula to collect the amount of Rs.8 lakh from the complainant at the instructions of co-accused Happy residing in a foreign country. There are specific allegations that the complainant handed over the amount of Rs.8 lakh to co-accused Sahil and Gurpartap Singh at the instructions of co-accused Happy.

12. That the petitioner received an amount of Rs.7,50,000/-out of the amount of Rs.8 lakhs on 29.11.2023 and video recording in this regard is on the file. Therefore, the petitioner is required to be interrogated intensely and his custodial interrogation of the petitioner is necessary to trace other co-accused persons and recover the amount obtained by him by means of fraud.

13. That petitioner was in the company of co-accused Sahil in the hotel when the amount of Rs.4 lakh was delivered to said co-accused Sahil by the complainant's son Naresh Kumar. Moreover, on 29.11.2023 the petitioner co-accused Sahil went to the complainant's house in Sector-19, Panchkula and collected the amount of Rs.8 lakh from the complainant. The complicity of the petitioner remains and he played an active role in the whole episode alongwith co-accused Sahil and Happy. This clearly shows that he has not been falsely implicated falsely in the present case."

REASONING:

8. Petitioner role in the case is that he collected money on behalf of the co-accused Sahil and there is no assurance on behalf of the petitioner. 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.

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.

10. The investigation indicates that the petitioner is not the main accused, so the petitioner's bail shall not be treated as a precedent for granting bail to the other co-accused with a higher role.

11. 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 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.

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. 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.

16. 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.

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 be at liberty to cancel this bail.

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

19. 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.

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

(ANOOP CHITKARA)
JUDGE

19.03.2025
Jyoti-II

Whether speaking/reasoned:	Yes
Whether reportable:	No.