



**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**
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CRM-M-10816-2025 (O&M)
Date of decision: 08.07.2025

Shivali
.....Petitioner
Versus
State of Haryana
.....Respondent

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Mr. Deepanshu Mehta, Advocate
for the petitioner.

Mr. Vikas Bhardwaj, AAG, Haryana.

Mr. M.K. Garg, Advocate
and Ms. Bhavna Thakur, Advocate
for the complainant.

HARPREET SINGH BRAR J. (Oral)

1. Prayer in this petition filed under Section 439 of Cr.P.C./483 of the BNSS, 2023, is for grant of regular bail to the petitioner in FIR No.204 dated 08.06.2024 registered under Sections 406, 420 IPC and Section 3 of the Haryana Protection of Interest of Depositors in Financial Establishment Act, 2013 at Police Station Civil Lines, Jind, District Jind.
2. As per the prosecution case, the FIR (supra) was registered on the basis of a complaint made by Upender Sharma, a resident of Jind, alleging that Swati Sahni and her husband Vivek Chauhan, along with others, cheated him and his acquaintances for a sum of approximately ₹17.54 crore by persuading them to invest in fictitious travel and salon



businesses, operating in Dubai. He alleged that following the tragic death of his brother in the year 2018, during a period of emotional vulnerability, Swati gained the trust of his family, particularly his brother's widow, and convinced them that her ventures were highly profitable and risk-free. Trusting her, Upender Sharma transferred huge amount of money to her bank accounts on different occasions, and she also collected significant amounts in cash from him and his associates. However, despite repeated demands, no returns were given, and when pressed, Swati and her husband allegedly issued life threats, claiming connections with powerful gangs and eventually, the couple fled abroad.

3. Learned counsel for the petitioner, *inter alia*, contends that the petitioner has been falsely implicated in the FIR (supra). As per the case set up by the prosecution, the main allegations are against co-accused Vivek Chauhan and Swati Sahni, who have induced the complainant for making investments in Dubai by promising sufficient returns and both of them took full responsibility of the investments made by the complainant and on their inducement, the complainant has made the investments. Learned counsel for the petitioner further submits that the petitioner has never met the complainant in her lifetime and she neither visited Jind. The petitioner has been made an accused only on the ground that around Rs.80.00 lacs have been deposited in her bank account and also in the account of one company, in which she is one of the Director. Further, the petitioner has sufficient and plausible explanation with regard to the amount received in her bank account. The



bank account of the petitioner duly proves her bona fide in business transactions, involving tour and travel business run by the petitioner. Further, the husband of the petitioner is suffering from chronic liver disease and he has been recommended liver transplant, as such, learned counsel for the petitioner prays for a lenient view by taking into account his serious condition as he requires urgent care and support of the petitioner. He further contends that the FIR (supra) cannot be registered under Sections 406 and 420 IPC as the same is antithetical to each other and he relied upon the judgment of Hon'ble Supreme Court in ***Delhi Race Club Limited vs State of Uttar Pradesh, (2024) 10 SCC 690***.

4. Learned counsel for the petitioner further submits that there are total 28 prosecution witnesses cited in the list of witnesses, out of which, no PW has been examined till date and the trial is likely to take long time in conclusion.

5. *Per contra*, learned State counsel has filed custody certificate today in the Court which is taken on record. Learned State counsel assisted by learned counsel for the complainant, vehemently opposes the prayer made by learned counsel for the petitioner on the ground that the complicity of the petitioner is duly established and she is the beneficiary of large some of money and till date, the main accused are absconding and in view of the serious allegations involving huge financial fraud, the petitioner is not entitled to any relief, however, he could not controvert the fact that the petitioner has suffered the



incarceration of more than 10 months and till date, no PW has been examined.

6. Having heard learned counsel for the parties and after perusing the record of the case, it transpires that the petitioner is behind the bars from the last 09 months and 24 days. Investigation is complete. The final report under Section 173 Cr.P.C. was presented before the concerned Court. Charges were framed and trial of the case has not made much progress. Out of 28 prosecution witnesses, no PW has been examined so far.

7. A two Judge Bench of Hon'ble Supreme Court in **"Satender Kumar Antil vs. CBI", (2022) 10 SCC 51**, with respect to prevailing conditions of undertrial prisoner in India has observed:

"6. Jails in India are flooded with undertrial prisoners. The statistics placed before us would indicate that more than 2/3rd of the inmates of the prisons constitute undertrial prisoners. Of this category of prisoners, majority may not even be required to be arrested despite registration of a cognizable offence, being charged with offences punishable for seven years or less. They are not only poor and illiterate but also would include women. Thus, there is a culture of offence being inherited by many of them. As observed by this Court, it certainly exhibits the mindset, a vestige of colonial India, on the part of the investigating agency, notwithstanding the fact arrest is a draconian measure resulting in curtailment of liberty, and thus to be used sparingly. In a democracy, there can never be an impression that it is a police State as both are conceptually opposite to each other."



8. Further the culpability, if any, would be determined at the time of trial and as such, no useful purpose will be served by further detention of the petitioner-accused. Keeping the petitioner in further detention without the prospect of the trial being concluded in the near future, would be violative of his rights under Article 21 of the Constitution of India.

9. In view the discussion above, the present petition is allowed. Accordingly, without commenting upon the merits of the case, the petitioner namely Shivali is ordered to be released on regular bail during pendency of the trial, on furnishing bail bonds/surety bonds to the satisfaction of Illaqa Magistrate/Trial Court/Duty Magistrate.

10. Nothing observed hereinabove shall be construed to be expression of an opinion by this Court on merits of the case. The learned Court below is directed to proceed with the matter on its own merits, lest it may prejudice the trial.

(HARPREET SINGH BRAR)
JUDGE

08.07.2025
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Whether speaking/reasoned:	Yes/No
Whether reportable:	Yes/No