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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-13103-2025
Date of Decision: 02.04.2025

Avinash Kumar ...Petitioner

Versus

State of Punjab ...Respondent

CORAM: HON'BLE MR. JUSTICE ANOOP CHITKARA

Present: Mr. K.B. Raheja, Advocate, for the petitioner.

Ms. Navreet Kaur Barnala, AAG, Punjab.

Dr. Anmol Rattan Sidhu, Senior Advocate with
Mr. Pratham Sethi, Advocate for the complainant.

ANOOP CHITKARA, J.

FIR No.	Dated	Police Station	Sections
187	25.11.2024	Cantonment Amritsar, Distt. Amritsar	316(4), 344, 61(2) of BNS (Sections 318(4), 336(3), 338(4) and 340(2) of BNS added later on)

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 21 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 the present case FIR no.187 dated 25.11.2024 for offences under Sections 316 (4), 344, 61 (2) BNS, Police Station Cantonment, Amritsar was registered based on the written complaint submitted by the complainant namely Salil Mahajan, Chartered Accountant of Amandeep Healthcare Private Limited wherein allegations were levelled against the present petitioner-accused Avinash Kumar, who was working as Senior Accountant at Amandeep Hospital, G.T. Road, Model Town, Amritsar for misappropriating/embezzling huge amount by committing fraud and forgery, by way of transferring more than Rs.3,00,00,000/- (Three crore rupees) with the help of his brother Chaman, father Kamlesh Kumar, mother Anjana Devi, wife Shikha and



sister-in-law Mandeep from the current accounts of Amandeep Nursing College, Jethuwal, Amandeep BR Medicity, Srinagar, Congenital Anomaly Treatment Trust (CATT), Avtar Medicos and the personal account of Dr. Avtar Singh to different accounts belonging to him, his relatives/friends & associates. The detailed contents of the complaint as given by the complainant and contents of FIR No.187 dated 25.11.2024 (supra) is annexed as Annexure P-1 with the present petition and may kindly be read as part of this paragraph and are not reproduced here for the sake of brevity.”

4. Counsel for the petitioner submits that pursuant to order dated 18.03.2025, the petitioner had joined the investigation.
5. However, counsel for the complainant submits that the amount involved is more than Rs. 4 crores and nothing has been recovered.
6. On this, counsel for the petitioner submits that although the amount was allegedly more than Rs.4 crores which is incorrect but even as per the complainant, the amount of Rs.1,99,84,800/- has been returned by the companies in the accounts of the complainant. He further on instructions submits that petitioner would voluntarily declare all his bank accounts as well as immovable properties and other assets to the investigator, if need so arises.
7. 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.
8. The State's counsel opposes bail and refers to the status report.
9. It would be appropriate to refer to the following portions of the status report, which read as follows:

“ROLE OF THE PETITIONER

22. That it is submitted that based on the investigation being carried out in the present case FIR No.187 dated 25.11.2024 (supra) it has come forth that the present petitioner Avinash Kumar was serving as Senior Accountant in Amandeep Hospital, GT Road, Model Town, Amritsar. He was looking after bank accounts of Amandeep B.R. Medicity, Srinagar, Amandeep College of Nursing, Jethuwal, The Congenital Anomaly Treatment Trust (CATT), which is one institution and personal bank account of Dr. Avtar Singh. He was having passwords and log in IDs of all the bank account of Amandeep Hospital. The petitioner was issued one mobile phone Redmi 9A having SIM No.95014xxxx, and another mobile



number 82848xxxx was issued to Account Branch by Amandeep Hospital, Amritsar which was also in access of the present petitioner Avinash Kumar. The present petitioner used to obtain account statements of personal account number 01151000xxxxx HDFC Bank of Dr. Avtar Singh and account No. 366705xxxxx ICICI Bank of Amandeep BR Medicity LLP which were being manipulated and tampered with, by way of deleting many entries from these statements by him and he further sent it through WhatsApp to Dr. Shehbaz son of Dr. Avtar Singh and accountant Aamir Rasul. The petitioner Avinash Kumar used to transfer amounts from personal account of Dr. Avtar Singh to account number 3742050xxxxx of Amandeep Nursing College Jethuwal in ICICI Bank, branch Rani Ka Bagh, Amritsar and thereafter the present petitioner had transferred huge amount of Rs. 4,74,26,005/- through 418 online transactions to different accounts of those who have no link with the business of Amandeep Hospital, Amritsar and Rs.1,99,84,800/- was returned back to the account of Amandeep Hospital from these firms, whereas Rs.2,74,41,205/- has been misappropriated. Many transactions have been made in the personal account of the present petitioner Avinash Kumar from some of these accounts and the present petitioner Avinash Kumar has also transferred a huge amount on 17.11.2024 and 18.11.2024 in the account of Sangiwal Construction Private Limited, Rajasthan wherein Rs.59.99 lac was transferred from account of Amandeep Hospital on a single day i.e. 03.11.2024. The co-accused Narinder Chaudhary has suffered disclosure statement that the present petitioner Avinash Kumar was investing the above said amount in online games and the present petitioner Avniash Kumar had online transferred above said amount from bank accounts of Amandeep Hospital in the account of Sangiwal Firm.

THE EVIDENCE AGAINST THE PETITIONER

23. That it is submitted that during the course of investigation of the present case FIR No.187 dated 25.11.2024 (supra), sufficient incriminating evidence has come on record against the present petitioner Avinash Kumar. The present petitioner Avinash Kumar being Senior Accountant of Amandeep Hospital, Amritsar was having log in IDs and passwords of all the accounts of Amandeep Hospital, Amritsar and personal account of Dr. Avtar Singh. The present petitioner Avinash Kumar was issued one mobile phone Redmi 9A having SIM No.95014xxxx and another mobile number 82848xxxx was issued to Account Branch by Amandeep Hospital, Amritsar which was also in access of the present petitioner Avinash Kumar. These both the mobile phone numbers were updated in account number 2316050xxxx, ICICI Bank, Majith Mandi of



The Congenital Anomaly Treatment Trust, account No.3742050xxxx of Amandeep College of Nursing in ICIC Bank, Rani Ka Bagh, Amritsar and account No.366705xxxx of Amandeep Br Medicity LLP, ICICI Bank, Rani Ka Bagh, Amritsar and all the alert messages qua every transactions were being sent on these mobile phone numbers by the bank. As per the investigation, it has so far come forth that the Hospital accounts are operated through mobile phones of the Hospital, which remained with the present petitioner Avinash Kumar and for the payments of the venders and paying of salaries of the employees, the petitioner Avinash Kumar being senior accountant had the complete access to use these mobile phones and he used to take the mobile phones with him at home on the excuse that the server was down and he would make the necessary transfers at home. The location of the above said mobile phones also remained at residence of the petitioner. The present petitioner Avinash Kumar being senior accountant was given responsibility to transfer salaries of employees, receive and send payment to the venders and also to assess the account of Dr. Avtar Singh for the benefit of the hospital. The present petitioner Avinash Kumar had made about 418 transactions from these accounts of Amandeep BR Medicity, Amandeep Nursing College, Jethuwal, CATT Trust and personal account of Dr. Avtar Singh. The petitioner has embezzled more than Rs.2.7 crore from these accounts while transferring the same to various accounts which are not concerned with Amandeep Hospital. The present petitioner Avinash Kumar has misused the trust imposed on him by the Hospital. It has transpired that the petitioner Avinash Kumar had made transactions from accounts of Amandeep Hospital to various accounts which are not concerned with the business of Amandeep Hospital and the present petitioner Avinash Kumar had also transferred amounts to Sangiwal Construction Private Limited, Rajasthan from his personal account and the present petitioner Avinash Kumar has also received amounts in his personal accounts from these accounts. A large number of transactions of deposit of more than Rs. 56 lac have been made within a short period of 05 months from 01.06.2024 to 31.12.2024 in the personal account of the petitioner which were either withdrawn or transferred to some other accounts whereas the petitioner was getting net salary of Rs.50062/- per month and the present petitioner Avinash Kumar has also received a large amount from the account of his wife Shikha and he had transferred Rs.2.30 lac to the account of Amandeep Hospital from the account of his minor son, which is also not justifiable. The co-accused Narinder Chaudhary has made disclosure statement that the present petitioner Avinash Kumar had transferred amounts from account of Amandeep Hospital in the account of



Sangiwal Construction Private Limited, Rajasthan for online games. All the witnesses, whose statements have so far been recorded in this case, have levelled specific allegations against the petitioner. The investigation of the present case is at its initial stage and sufficient incriminating evidence is available on record against the petitioner Avinash Kumar.”

REASONING:

10. There is a return of half of the embezzled amount and petitioner is willing to declare all his assets and bank details, as such, he is entitled to bail.
11. 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.
12. 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.
13. 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.
14. 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) | |
15. This order is subject to the petitioner’s complying with the following terms.
16. 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. In case, petitioner fails to join investigation, it shall be



permissible for the State to file an application for cancellation of bail before the Sessions Court. In case, the recovery is not effected, it shall be permissible for the complainant to file an application for cancellation of bail before the Sessions Court. The petitioner shall be in deemed custody for Section 27 of the Indian Evidence Act, 1872/ Section 23 of BSA, 2023. During the investigation, the petitioner shall not be subjected to third-degree, indecent language, inhuman treatment, etc.

17. 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.

18. 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.

19. 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.

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

21. 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.

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

(ANOOP CHITKARA)
JUDGE

02.04.2025

Jyoti-II

Whether speaking/reasoned: Yes

Whether reportable: No.