CRM-M-14039-2025

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

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CRM-M-14039-2025
Decided on: 28.04.2025

Rupinder Singh Harika ...Petitioner

Versus

State of U.T. Chandigarh …Respondent

CORAM: HON'BLE MR. JUSTICE ANOOP CHITKARA

Present: Mr. Ferry Sofat, Advocate
for the petitioner.

Mr. Manish Bansal, PP, UT Chandigarh with
Mr. Navjit Singh, Advocate
for the respondent-UT.

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ANOOP CHITKARA, J.

FIR No.	Dated	Police Station	Sections
393	16.12.2019	Central Sector 17 Chandigarh	420, 467, 468, 471, 120B IPC

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 reply filed by the State, which reads as follows:

> *"The brief facts of the case are like that a FIR No. 393, dated 16.12.2019, was registered under Sections 420, 467, 468, 471, and 120-B of the IPC at Police Station Central Sector-17, Chandigarh (Annexure P-1), based on a complaint filed by Sanjeev Madan, Excise and Taxation-cum-Proper Officer, U.T. Chandigarh, against the partners of M/s HS Group, Sector 9D, Chandigarh, holding GST No. 04AAHFH6955LIZZ. During the course of verification, it was discovered that Pankaj Gautam (son of Sh. Rajinder Gautam, resident of Mohali, PAN-AXNPG0914B, and Passport*

> *No. H9315861) and Rupinder Singh Harika (son of Ravinder Singh, resident of Patiala, PAN-ADQPH4485B, and Passport No. PO869667), both partners of M/s HS Group, SCO 18-19, 2nd Floor, Office No. 3, Sector 9-D, Chandigarh, had fraudulently obtained a refund of Rs. 2,88,61,747 from the Customs Department against Input Tax Credit (ITC) for which they were not eligible. Further investigation revealed that E-way bills for the transactions were also generated fraudulently. The taxpayers received the refund unlawfully, while no tax was deposited in the government STA treasury throughout the entire supply chain. The adjudication proceedings were concluded under Section 20 of the IGST Act, 2017, read with Sections 74, 125, and 50 of the CGST Act, 2017, INDIA through an order dated 28.07.2019. A total demand of tax, interest, and penalty amounting to Rs. 6,19,62,155 was raised, and the taxpayers were directed to pay the amount by 26.09.2019. Consequently, the present FIR was registered against Pankaj Chandigarh Gautam and Rupinder Singh Harika."*

4. The petitioner's counsel submits that they have complied with the order dated 01.04.2025 and handed over the affidavit to the State counsel. He further submits that they would not claim such declaration as any incrimination or violation of their rights under Articles 20/21 of the Constitution of India, Bharatiya Sakshya Adhiniyam 2023 or any other law in force. He further prays for bail by imposing any stringent conditions and contends that 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 reply.

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

> *"That the present petitioner is alleged to be actively involved in a fraud pertaining to GST whereby the present petitioner along with other co-accused fraudulently received a refund of Rs.2,88,61,747 from the department against the input tax credit for which the company was not eligible. The present petitioner is one of the Directors of the Company with 50% shareholding and also the signatory to the account no.70005065527 of Standard Chartered Bank in which the amount was refunded as such he cannot take plea that he is not active partner. It has also come on record that the e-way bills were also generated fraudulently*

to claim the refund of GST.

That it would be pertinent to mention that a total demand of tax interest, and penalty amounting to Rs. 6,19,62,155 was raised by the department, and the taxpayers i.e. the petitioner and other co-accused were directed to pay the amount by 26.09.2019, however, the petitioner and other co-accused ignored it and did not deposit the amount in given stipulated period of time."

REASONING:

7. Petitioner already declared his assets by way of affidavit and the same is handed over to the State. As such, State may recover the amount, if any, from the petitioner in accordance with law, for which custodial interrogation is not required. 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. Given the above, the penal provisions invoked coupled with the primafacie 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, subject to the compliance of terms and conditions mentioned in this order. 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.

9. 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.

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. *<u>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</u>*. 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.

13. ***<u>It is clarified that investigation shall be carried out to recover the proceeds of crime and in case money has been transferred to any other account, the investigator is at liberty to freeze the accounts to the extent money has been transferred. The Bank Managers of such banks are directed to cooperate with the investigator. Petitioner is directed to cooperate in recovery of proceeds of crime and if he fails to do so, State shall file an application for cancellation of bail before the Sessions Court.</u>***

14. 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.

15. 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.

16. 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.

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

28.04.2025
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Whether speaking/reasoned: Yes
Whether reportable: No.