IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH
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216 **CRM-M-16842-2025**
Date of Decision : 27.10.2025

MUNISH KUMAR
...Petitioner

VERSUS

STATE OF HARYANA
...Respondent

CORAM: HON'BLE MS. JUSTICE AARADHNA SAWHNEY

Present: Ms. Gagandeep Kaur, Advocate
for the petitioner.

Ms. Shweta Nahata, DAG, Haryana.

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AARADHNA SAWHNEY, J. (ORAL)

1. This petition for grant of bail under Section 483 BNSS, has been filed by petitioner, an accused in case bearing FIR No.67 dated 31.07.2024 registered against him at Police Station Cyber Jhajjar, District Jhajjar, at the instance of Rahul Mishra (complainant), for the commission of offences punishable u/s 316(2), 318(4), 61 of BNS and Section 66-D of Information Technology Act.

2. Relevant facts as emerging from the documents on record be noticed hereinbelow:-

In brief, complainant Rahul Mishra, son of Raja Mishra, resident of House No.20/211, Gali No.4, Nai Basti, Bahadurgarh, District Jhajjar, alleged that he was defrauded to the tune of Rs.48,36000/- on the pretext of online trading in share market, after being lured to join a WhatsApp Group, namely, 'F'-I Indian Stock Market Elite Inner Group by one Shruti Pandey, whose mobile numbers were also mentioned in the complaint and who introduced herself as Senior Manager of Vikas Mehta, Leader of the Group. Mr. Mehta claimed himself to be an experienced registered adviser of SEBI. The Manager Ms. Pandey used to post messages relating to Stock Market, as also analysis of Mr. Mehta about how the market would behave. On the asking of Mr. Mehta and Ms. Pandey, he was provided a link for opening a trading account and was asked to fill a form. Money was also deposited in the bank account disclosed by above two persons, for purchasing shares. Complainant alleged that details of accounts in various banks were sent to deposit money. Further, he also took loan from various banks to invest money in the stock market. In all, complainant claims to have deposited Rs.48,36,000/- in various accounts. Unfortunately, when he verified the documents, that had been sent to him through internet, they were found to be fake.

Primarily with this backdrop, complainant requested the police officials to catch hold of all those, who are involved in this fraud wherein he has lost his hard-earned money, as also to initiate appropriate criminal proceedings against them. On the basis of said complaint, formal case vide FIR No.67 dated 31.07.2024, u/s 316(2), 318(4), 61 of BNS and Section 66-D of Information Technology Act was registered and criminal proceedings were set into motion.

During the course of instigation, relevant enquiries were made from the various banks, statement of accounts were collected. <u>Investigating agency also found out that lot of money had been deposited in the account of one Raj Kumar Rawat, resident of Jaipur, who was arrested on 23.08.2024.During interrogation, he not only confessed his involvement in the commission of offence, but also disclosed the identification details of other co-accused/his friend, namely, Gaurav</u>

Chauhan, son of Shri Ganga Charan, resident of Village Udimor, District Etawah, U.P. Gaurav Chauhan was arrested on following day i.e. 24.08.2024. After investigation was complete, challan was filed against them, who were also chargesheeted by the learned trial Court under Sections 316(2), 318(4), 61(2) of BNS and Section 66-D of Information Technology Act on 27.02.2025.

During further course of investigation, Rs.21,85,000/- was found to be transferred from the account of complainant to the account of present petitioner. After the documents from the bank were collected, it revealed that petitioner had mentioned himself to be a resident of Manimajra, Chandigarh. Bank statement, KYC details of account of petitioner in Central Bank of India were also obtained. On 31.12.2024, petitioner was arrested.

During interrogation, petitioner highlighted the modus-operandi of committing fraud on innocent investors. He also disclosed the identification details of other co-acussed, namely, Vinod Kumar and Amandeep, who had allegedly prepared his forged Aadhar card, on the basis of which various accounts were opened in his name in different banks. Further a fake Company in the name of *Munish Trading Company* was also formed. Account of this Company was opened in Central Bank of India, some money was given to him in lieu thereof, however, passbook, ATM card, mobile SIM card, cheque book etc. were handed over to one Vinod Kumar. It was also came to the notice of the IO that in all, 21 complaints had been registered against the account opened in the name of the petitioner and Rs.21,85,000/- was found to be transferred from the account of complainant to the account of petitioner. Admittedly, investigations qua petitioner are complete, for challan has been filed.

After the application for grant of bail was dismissed by the learned

Sessions Judge, Jhajjar, vide order dated 19.02.2025, petitioner has filed the present petition under Section 483 BNSS.

3. Learned counsel for the petitioner submits that petitioner has been falsely implicated in the present case, his name was not even mentioned in the FIR, he is not at all connected with this crime. Petitioner never induced any person to invest money in the stock market. In fact, he (petitioner) himself is a victim of fraud, for one of his friend, namely, Gurpreet introduced him to co-accused Vinod Kumar, resident of Fatehabad and Amandeep, resident of Chandigarh. It was at the instance of the aforesaid two persons that he agreed to open various accounts in different banks. For the said purpose, his Aadhar Card, personal identification card etc. were forged. Though admittedly, some money was received by him in cash. But taking undue advantage of his illiteracy, his Aadhar card and other personal identification documents were misused to setup a firm (Munish Trading Company) in his name, wherein money received from complainant and others were deposited. He was totally unaware that fraud of such magnitude has been committed at his cost. All the relevant documents are in possession of the aforesaid Vinod Kumar and Amandeep.

Learned counsel next submits that lenient view be taken in favour of petitioner, who has been in custody since 31.12.2024. Moreso, when two of the co-accused (similarly situated) have been granted this concession. Further, the entire case is based on documentary evidence, investigations have been culminated as challan has already been filed but the completion of trial is likely to take some time, thus, further incarceration of petitioner in custody would not serve any useful purpose, as the same would be violative of the fundamental rights guaranteed under Article 21 of the Constitution of India. Further, as per learned counsel, petitioner undertakes to abide by all the conditions so imposed by the Court, while extending the concession of bail to him.

4. Per contra, learned State counsel opposes the request for grant of bail on the ground that petitioner was actively involved in the entire incident in which complainant and few other innocent investors lost their hard-earned money. Plea of the petitioner that being an illiterate person, he did not know the purpose for which his signatures were taken by other co-accused and thus, he was not aware that an account opened in his name is being misused to park the money obtained by fraud, is too feeble to be believed at this stage. Further as per learned State counsel, Status Report dated 06.05.2025 by way of affidavit of Mr. Anil Kumar, Assitant Commissioner of Police, Beri, District Jhajjar, clearly highlights the role of the petitioner. Investigation reveal that Rs.21,85,000/- was transferred from the account of complainant to the account of petitioner in Central Bank of India. Moreover, the two main accused Vinod Kumar and Amandeep are yet to be arrested. Further as per learned State counsel, if extended the concession of bail to the petitioner, he is likely to misuse the same by fleeing from the process of justice, by not appearing in the Court, to overawe complainant and other related witnesses, who have not been examined till date, further the chances of him misusing the concession of bail by committing yet another offence, can also not be ruled out. Dismissal of the petition has been prayed for.

5. I have heard the learned counsel for the parties and with their able

assistance, perused the record available on record.

6. It is settled principle that grant of Bail is the rule and jail is the exception. Hon'ble Supreme Court in **"*Gurbaksh Singh Sibbia V. State of Punjab*", *((1980) 2 SCC 5)*** held as under:-

> *"27. It is not necessary to refer to decisions which deal with the right to ordinary bail because that right does not furnish an exact parallel to the right to anticipatory bail. It is, however, interesting that as long back as in 1924 it was held by the High Court of Calcutta in* Nagendra v. King-Emperor *[AIR 1924 Cal 476, 479, 480 : 25 Cri LJ 732] that the object of bail is to secure the attendance of the accused at the trial, that the proper test to be applied in the solution of the question whether bail should be granted or refused is whether it is probable that the party will appear to take his trial and that it is indisputable that bail is not to be withheld as a punishment. In two other cases which, significantly, are the 'Meerut Conspiracy cases' observations are to be found regarding the right to bail which deserve a special mention. In K.N. Joglekar v. Emperor [AIR 1931 All 504 : 33 Cri LJ 94] it was observed, while dealing with Section 498 which corresponds to the present Section 439 of the Code, that it conferred upon the Sessions Judge or the High Court wide powers to grant bail which were not handicapped by the restrictions in the preceding Section 497 which corresponds to the present Section 437. It was observed by the court that there was no hard and fast rule and no inflexible principle governing the exercise of the discretion conferred by Section 498 and that the only principle which was established was that the discretion should be exercised judiciously. In Emperor v. Hutchinson [AIR 1931 All 356, 358 : 32 Cri LJ 1271] it was said that it was very unwise to make an attempt to lay down any particular rules which will bind the High Court, having regard to the fact that the legislature itself left the discretion of the court unfettered. According to the High Court, the variety of cases that may arise from time to time cannot be safely classified and it is dangerous to make an attempt to classify the cases and to say that in particular classes a bail may be granted but not in other classes. It was observed that the principle to be deduced from the various sections in the Criminal Procedure Code was that grant of bail is the rule and refusal is the exception. An accused person who enjoys freedom is in a much better position to look after his case and to properly defend himself than if he were in custody. As a presumably innocent person he is therefore entitled to freedom and every opportunity to look after his own case. A presumably innocent person must have his freedom to enable him to establish his innocence.*
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> *28. Coming nearer home, it was observed by Krishna Iyer, J., in Gudikanti Narasimhulu v. Public Prosecutor [(1978) 1 SCC 240 : 1978 SCC (Cri) 115] that: (SCC p. 242, para 1)*
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> *"... the issue of bail is one of liberty, justice, public safety and burden of the public treasury, all of which insist that a developed jurisprudence of bail is integral to a socially sensitized judicial process. . . . After all, personal liberty of an accused or convict is fundamental, suffering lawful eclipse only in terms of procedure*

established by law. The last four words of Article 21 are the life of that human right."

29. In Gurcharan Singh v. State (Delhi Administration) [(1978) 1 SCC 118 : 1978 SCC (Cri) 41] it was observed by Goswami, J., who spoke for the court, that: (SCC p. 129, para 29)

"29"There cannot be an inexorable formula in the matter of granting bail. The facts and circumstances of each case will govern the exercise of judicial discretion in granting or cancelling bail."

30. In AMERICAN JURISPRUDENCE (2d, Volume 8, p.806, para 39), it is stated:

"Where the granting of bail lies within the discretion of the court, the granting or denial is regulated, to a large extent, by the facts and circumstances of each particular case. Since the object of the detention or imprisonment of the accused is to secure his appearance and submission to the jurisdiction and the judgment of the court, the primary inquiry is whether a recognizance or bond would effect that end."

It is thus clear that the question whether to grant bail or not depends for its answer upon a variety of circumstances, the cumulative effect of which must enter into the judicial verdict. Any one single circumstance cannot be treated as of universal validity or as necessarily justifying the grant or refusal of bail."

In the case of ***Javed Gulam Nabi Shaikh Vs. State of Maharashtra and Anr., (2024) 9 SCC 813***, the Supreme Court while granting bail to accused, who was in custody for 04 years, in paragraph Nos.16 and 17, held as under:-

16. Criminals are not born but made. The human potential in everyone is good and so, never write off any criminal as beyond redemption. This humanist fundamental is often missed when dealing with delinquents, juvenile and adult. Indeed, every saint has a past and every sinner a future. When a crime is committed, a variety of factors is responsible for making the offender commit the crime. Those factors may be social and economic, may be, the result of value erosion or parental neglect; may be, because of the stress of circumstances, or the manifestation of temptations in a milieu of affluence contrasted with indigence or other privations

17. If the State or any prosecuting agency including the court concerned has no wherewithal to provide or protect the fundamental *right of an accused to have a speedy trial as enshrined under Article 21 of the Constitution then the State or any other prosecuting agency should not oppose the plea for bail on the ground that the crime committed is serious. Article 21 of the Constitution applies irrespective of the nature of the crime."*

Admittedly, the petitioner was not named in the FIR. His name cropped up in the disclosure statement of the co-accused, the admissibility and reliability of the said statement is a question which would be decided during the course of trial based on the evidence adduced on the case file. Moreso, nothing has come on record to indicate that petitioner is involved in any other offence of like nature. Further, the Status report reveals that the challan against the present petitioner and other co-accused have been filed. None of the witnesses have been examined (as pointed out by learned State counsel), thus, the completion of trial in the near future is quite remote.

In ***Maulana Mohd. Amir Rashadi Vs. State of U.P. and another, 2012(1) RCR (Criminal) 586***, Hon'ble Supreme Court upheld the order of the High Court in granting bail to the second respondent/accused on the ground that he had been in custody for a long period and the possibility of the trial being concluded in the near future was remote.

When appreciated in the light of the facts that have been brought on record, the Court is of the opinion that no useful purpose would be served by further detention of the petitioner (who has been in custody since 31.12.2024), as the same, without the prospect of trial being concluded in the near future, would be violative of his rights under Article 21 of the Constitution of India, including right to speedy trial and would, thus, also be against the principle of *"Bail is a general rule and incarceration is an exception"* as held by Hon'ble Supreme Court in ***Dataram vs. State of Uttar Pradesh and another, 2018(2) R.C.R. (Criminal) 131.***

Resultantly, petitioner is granted the concession of bail subject to his furnishing personal bond along with two surety bonds of Rs.1 lakh each to the satisfaction of learned trial Court/Duty Magistrate concerned. It is further made clear that one of the sureties should be either one of parents or any near relative of petitioner. The petitioner shall further abide by the following conditions:-

(i) The petitioner shall not leave the country without prior permission of the trial Court and shall deposit the passport in the trial Court.

(ii) The petitioner will not tamper with the evidence during the trial.

(iii) The petitioner will not pressurize/ intimidate the prosecution witnesses.

(iv) The petitioner will appear before the trial Court on each and every date fixed, unless is exempted by a specific order of Court.

(v) The petitioner shall not commit an offence similar to the offence of which, he is an accused, or for commission of which he is suspected of.

(vi) The petitioner shall not directly or indirectly coerce, induce, threaten or promise to any person acquainted with the facts of the case so as to dissuade him/her from disclosing such facts to the Court or to any police officer or tamper with the evidence in any manner.

(vii) The petitioner shall not in any manner misuse his liberty.

(viii) The petitioner shall furnish his address and mobile number to the Trial Court forthwith and shall not change the same till the conclusion of the trial and in case for any reason, the petitioner seeks to change any of the aforesaid, the same shall be done only with prior intimation to the learned Trial Court, stating the reason for the same.

(ix) The trial Court/Duty Magistrate may impose any other condition, as deemed appropriate while releasing the petitioner.

Accordingly, the present petition is allowed and it is made clear that in case there is any breach of the aforesaid conditions, the State shall be at liberty to seek cancellation of bail as granted to the petitioner by this order.

In view of the above, it is clarified that the observations made herein are limited for the purpose of present proceedings and would not be construed as an opinion on the merits of the case and the trial would proceed independently of the aforesaid observations.

(AARADHNA SAWHNEY)
JUDGE

27.10.2025
Nisha Yadav

Whether Speaking/reasoned *Yes/No*
Whether Reportable *Yes/No*