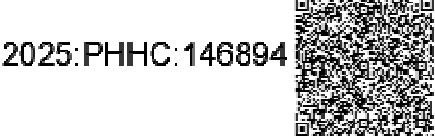


CRM-M-17348-2025



229

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRM-M-17348-2025

Date of decision: October 28, 2025

Thogati Badrinath

....Petitioner

Versus

State of Haryana and another

...Respondents

CORAM: HON’BLE MR. JUSTICE SUMEET GOEL

Present:- Mr. Rohit Choudhary, Advocate for the petitioner.

Mr. Deepak Kumar Grewal, DAG Haryana.

Ms. Puneeta Sethi, Senior Panel Counsel with
Mr. Y.S. Thakur, Advocate for respondent No.2-UOI.

SUMEET GOEL, J. (ORAL)

Present second petition has been filed under Section 483 of the Bharatiya Nagarik Suraksha Sanhita, 2023 (for short ‘BNSS’) for grant of regular bail to the petitioner in case bearing FIR No.39 dated 28.03.2024, registered for the offences punishable under Sections 120-B of the Indian Penal Code, 1860 (for short ‘IPC’) (Section 204 of IPC added later on) and Section 420 of the IPC, at Police Station Cyber Crime Central, District Faridabad.

2. The gravamen of the allegations against the petitioner is that complainant, namely, Amit Kumar, engaged in private service, lodged a

CRM-M-17348-2025

complaint stating that on 25.01.2024, he received a link through his Facebook account. Upon clicking the link, his mobile number was added to a WhatsApp group, the name of which is mentioned in the FIR. The group members appeared to be involved in an investment scheme promising high profits. Convinced by the representations made, the complainant agreed to invest money and was subsequently added to two additional WhatsApp groups and provided with a link to register on a specified URL platform. Thereafter, an individual identifying himself as *Manager David* from the company's customer service department contacted him and instructed him to deposit money and recharge his mobile account, assuring returns of up to 500%. Acting on these assurances, Amit Kumar invested a total amount of ₹68,82,972/- through various bank accounts. When he later inquired about the profits, he was asked to pay a 10% service charge. Consequently, he was defrauded of a total sum of ₹1,09,87,978/- by *Manager David*, *Senior Arjun Kapoor*, and *Assistant Jyoti Rajput*, who, in furtherance of a criminal conspiracy, dishonestly induced him to part with his money.

3. Learned counsel for the petitioner has argued that the petitioner is in custody since 15.05.2024. Learned counsel has further argued that the petitioner has been falsely implicated into the FIR in question. Learned counsel has iterated that the case in hand pertains to magisterial trial. Learned counsel has also argued that the petitioner himself is a victim as co-accused had illegally used him in the alleged offence. Learned counsel has urged that the petitioner is in custody for more than 01 year and 05 months. Thus, regular bail is prayed for.

4. Learned State counsel has opposed the present petition by arguing that the allegations raised are serious in nature and thus, the petitioner does not

CRM-M-17348-2025

deserve the concession of the regular bail. Learned State counsel seeks to place on record custody certificate dated 26.10.2025 in Court, which is taken on record.

5. I have heard counsel for the parties and have gone through the available records of the case.

Before delving into the matter further, it would be germane to refer herein the case law governing the issue in hand:

“5.1 Gudikanti Narasimhulu and others vs. Public Prosecutor, High Court of Andhra Pradesh AIR 1978 SUPREME COURT 429, relevant whereof reads as under:

“10. The significance and sweep of Article 21 make the deprivation of liberty a matter of grave concern and permissible only when the law authorising it is reasonable, even-handed and geared to the goals of community good and State necessity spelt out in Article 19. Indeed, the considerations I have set out as criteria are germane to the constitutional proposition I have deduced. Reasonableness postulates intelligent care and predicates that deprivation of freedom- by refusal of bail is not for punitive purpose but for the bi-focal interests of justice-to the individual involved and society affected.

11. We must weigh the contrary factors to answer the test of reasonableness, subject to the need for securing the presence, of the bail applicant. It makes sense to assume that a man on bail has a better chance to prepare or present his case than one remanded in custody. And if public justice is to be promoted, mechanical detention should be close to ours, the function of bail is limited, 'community roots' of the, applicant are stressed and, after the Vera Foundation's Manhattan Bail Project, monetary suretyship is losing ground. The considerable public expense in keeping in custody where no danger of disappearance or disturbance can arise, is not a negligible consideration. Equally important is the deplorable condition, verging on. the inhuman, of our sub-jails, that the unrewarding cruelty and expensive custody of avoidable incarceration makes refusal of bail unreasonable and a Policy favouring release justly sensible.

12. A few other weighty factors deserve reference. All deprivation of liberty is validated by social defence and individual correction along an anti-criminal direction. Public justice is central to the whole scheme of bail law. Fleeing justice must be forbidden but punitive harshness should be minimised. Restorative devices to redeem the man, even, through community service, meditative

drill, study classes or other resources should be innovated, and playing foul with public peace by tampering with evidence, intimidating witnesses or committing offence while on judicially sanctioned 'free enterprise,' should be provided against. No seeker of justice shall play confidence tricks on the court or community. Thus, conditions may be hung around bail orders, not to cripple but to protect. Such is the holistic jurisdiction and humanistic orientation invoked by the judicial discretion correlated to the values of our constitution.”

5.2. Further, the Hon’ble Supreme Court in a judgment titled as **Gurcharan Singh vs. State (UT of Delhi) 1978 (1) SCC 118**, has held as under:

*“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.”*

5.3 Furthermore, the Hon’ble Supreme Court in a judgment titled as **Sanjay Chandra vs. CBI (2012) 1 SCC 40**, has held as under:

“21. In bail applications, generally, it has been laid down from the earliest times that the object of bail is to secure the appearance of the accused person at his trial by reasonable amount of bail. The object of bail is neither punitive nor preventative. Deprivation of liberty must be considered a punishment, unless it can be required to ensure that an accused person will stand his trial when called upon. The courts owe more than verbal respect to the principle that punishment begins after conviction, and that every man is deemed to be innocent until duly tried and duly found guilty.

22. From the earliest times, it was appreciated that detention in custody pending completion of trial could be a cause of great hardship. From time to time, necessity demands that some unconvicted persons should be held in custody pending trial to secure their attendance at the trial but in such cases, “necessity” is the operative test. In this country, it would be quite contrary to the concept of personal liberty enshrined in the Constitution that any person should be punished in respect of any matter, upon which, he has not been convicted or that in any circumstances, he should be deprived of his liberty upon only the belief that he will tamper with the witnesses if left at liberty, save in the most extraordinary circumstances.”

CRM-M-17348-2025

6. The petitioner was arrested on 15.05.2024 whereinafter investigation was carried out and challan has been presented on 13.06.2024. Total 06 prosecution witnesses have been cited, but none has been examined till date. It is, thus indubitable that conclusion of the trial will take its own time. The rival contention raised at Bar give rise to debatable issues, which shall essentially be ratiocinated upon during the course of trial. This Court does not deem it appropriate to delve deep into these rival contentions, at this stage, *lest* it may prejudice the trial. Nothing tangible has been brought forward to indicate the likelihood of the petitioner absconding from the process of justice or interfering with the prosecution evidence.

The issue(s) flagged by this Court, as recorded in the order dated 07.08.2025, shall be gone into in an appropriate petition, as and when the occasion so arises.

6.1. At this juncture, it would be apposite to refer herein a judgment of the Hon'ble Supreme Court in *Javed Gulam Nabi Shaikh vs. State of Maharashtra and anothers, 2024(3) RCR (Criminal) 494*, which reads thus:

“18. Criminals are not born out 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.

19. 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.

20. We may hasten to add that the petitioner is still an accused; not a convict. The over-arching postulate of criminal jurisprudence that

CRM-M-17348-2025

an accused is presumed to be innocent until proven guilty cannot be brushed aside lightly, howsoever stringent the penal law may be.

21. *We are convinced that the manner in which the prosecuting agency as well as the Court have proceeded, the right of the accused to have a speedy trial could be said to have been infringed thereby violating Article 21 of the Constitution.”*

6.2. Indubitably, the present petition is the second attempt by the petitioner to secure regular bail. The last bail plea preferred by the petitioner was dismissed as withdrawn on 29.01.2025. However, keeping in view the extended custody of the petitioner for more than 08 months and there being no substantial progress in the trial, this Court is inclined to affirmatively consider the instant plea for bail. A profitable reference, in this regard, can be made to a judgment of this Court passed in ***CRA-S-2332-2023*** titled as ***Rafiq Khan versus State of Haryana and another***, relevant whereof reads as under:

“10. *As an epilogue to the above discussion, the following principles emerge:*

I Second/successive regular bail petition(s) filed is maintainable in law & hence such petition ought not to be rejected solely on the ground of maintainability thereof.

II. Such second/successive regular bail petition(s) is maintainable whether earlier petition was dismissed as withdrawn/dismissed as not pressed/dismissed for non-prosecution or earlier petition was dismissed on merits.

III For the second/successive regular bail petition(s) to succeed, the petitioner/applicant shall be essentially/pertinently required to show substantial change in circumstances and showing of a mere superficial or ostensible change would not suffice. The metaphoric expression of seeking second/successive bail plea(s) ought not be abstracted into literal iterations of petition(s) without substantial, effective and consequential change in circumstances.

IV No exhaustive guidelines can possibly be laid down as to what would constitute substantial change in circumstances as every case has its own unique facts/circumstance. Making such an attempt is nothing but an utopian endeavour. Ergo, this issue is best left to the judicial wisdom and discretion of the Court dealing with such second/successive regular bail petition(s).

V In case a Court chooses to grant second/successive regular bail petition(s), cogent and lucid reasons are pertinently required to be recorded for granting such plea despite such a plea being second/successive petition(s). In other words, the cause for a Court

CRM-M-17348-2025

having successfully countenanced/entertained such second/successive petition(s) ought to be readily and clearly decipherable from the said order passed.”

6.3. As per custody certificate dated 26.10.2025 filed by learned State counsel, the petitioner has already suffered incarceration for a period of 01 year, 05 months and 12 days, & is not shown to be involved in any other FIR(s).

Suffice to say, further detention of the petitioner as an undertrial is not warranted in the facts and circumstances of the case.

7. In view of above, the present petition is allowed. Petitioner is ordered to be released on regular bail on his furnishing bail/surety bonds to the satisfaction of the Ld. concerned CJM/Duty Magistrate. However, in addition to conditions that may be imposed by the concerned CJM/Duty Magistrate, the petitioner shall remain bound by the following conditions:

- (i) The petitioner shall not mis-use the liberty granted.
- (ii) The petitioner shall not tamper with any evidence, oral or documentary, during the trial.
- (iii) The petitioner shall not absent himself on any date before the trial.
- (iv) The petitioner shall not commit any offence while on bail.
- (v) The petitioner shall deposit his passport, if any, with the trial Court.
- (vi) The petitioner shall give his cellphone number to the Investigating Officer/SHO of concerned Police Station and shall not change his cell-phone number without prior permission of the trial Court/Illaqa Magistrate.
- (vii) The petitioner shall not in any manner try to delay the trial.

8. In case of breach of any of the aforesaid conditions and those which may be imposed by concerned CJM/Duty Magistrate as directed

CRM-M-17348-2025

hereinabove or upon showing any other sufficient cause, the State/complainant shall be at liberty to move cancellation of bail of the petitioner.

9. Ordered accordingly.
10. Nothing said hereinabove shall be construed as an expression of opinion on the merits of the case.
11. Since the main case has been decided, pending miscellaneous application, if any, shall also stands disposed off.

(SUMEET GOEL)
JUDGE

October 28, 2025
mahavir

Whether speaking/reasoned: Yes/No

Whether reportable: Yes/No