247 **IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH**

CRM-M-18170-2025
Reserved on: 06.05.2025
Pronounced on: 19.05.2025

VINOD KUMAR **...PETITIONER**

VERSUS

STATE OF HARYANA **…RESPONDENT**

CORAM: HON'BLE MR. JUSTICE ANOOP CHITKARA

Present: Mr. Shiv Kumar, Advocate for the petitioner.

Mr. Naveen K. Sheoran, DAG, Haryana.

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ANOOP CHITKARA, J.

FIR No.	Dated	Police Station	Sections
330	07.11.2024	Cyber Crime (East) Gurugram, District Gurugram	318(4) BNS (Sections 61(2) of BNS and 66 D of IT Act added later on)

1. The petitioner incarcerated in the FIR captioned above had come up before this Court under Section 483 of Bharatiya Nagarik Suraksha Sanhita, 2023, [BNSS], seeking regular bail.

2. In paragraph 11 of the bail petition, the petitioner declares that he has no criminal antecedents. However, in para 23 of the reply, the petitioner has the following criminal antecedents:

Sr. No.	FIR No.	Date	Offenses	Police Station
1.	421	29.09.2021	379 IPC	Adarsh Nagar, Faridabad

3. The facts and allegations are being taken from the reply filed by the State, which reads as follows:

> "*xxx xxx xxx xxx*
>
> 3. *That the brief facts of the aforementioned FIR that the complainant had submitted a written complaint stating that she became friends with an individual claiming to be residing in the UK, through Instagram ID "Micheal_Thomas03" and communicated with him via WhatsApp No. +xxxxx0162176. The complainant further contended that the individual, posed as a fake customs officer, who had deceived her into paying Rs. 11,40,000/- under the false pretext of receiving a gift package containing*

> *£40,000, an iPhone 11, a watch, a necklace, and other expensive items. It was further asserted that she was tricked into transferring money to account numbersXXXXX110075029 (IFSC UBCA0000390) and XXXXX0110006904 (IFSC BKID0007753). Additionally, payments were made through Google Pay to the numbers XXX5405114 and XXX8857142 (Durgesh) and XXX0106771 (Kartik Saini). The complainant had also interacted with an alleged "customs official" using phone number XXXXX91610. Legal action was sought. On the basis of these allegations, the aforementioned FIR was registered and investigation was taken up in the matter.*
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> 4. *That during the course of investigation, the complainant was associated with the investigation of the case and the complainant had produced screenshots of conversations with the accused from her phone, along with the certificate as mandated by the provision under section 63 BSA, 2023 and the same were taken into police custody. Statement of complainant was recorded.*
>
> 5. *That during the course of further investigation, notices were issued to concerned bank, WhatsApp and Instagram to obtain the relevant records. Further account opening form, bank statement and account holder's Aadhar Card pertaining to the UCO Bank Account bearing number XXXXX110075029 were obtained and taken into police possession. From the perusal of the same, it transpired that beneficiary account number XXXXX110075029 maintained with UCO Bank was registered in the name of Kartik Saini."*

4. Counsel for the petitioner seeks bail on the ground of custody which is around 04 months and 24 days and also with assurance that he would live a decent life and in case, he repeats the offence or commit any offence, where the sentence prescribed is more than 07 years, he would have no objection, if State files and application for cancellation of his bail. He furthercontends that further pre-trial incarceration would cause an irreversible injustice to the petitioner and his 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:

> *6 That on 17.11.2024, ID/CAF of registered mobile number XXX0106771 as linked to UCO Bank account number XXXXX110075029 was obtained and taken into police possession. On perusal of the record, it transpired that the said mobile number was registered in the name of Kartik Saini.*
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> *7. That on 18.11.2024, notice under Section 35(3) of BNSS was issued to Kartik Saini calling upon him to join the investigation of the present*

case. He was joined with the investigation of the case and was put to question. Upon questioning, he suffered his disclosure statement admitting his involvement in the commission of the present Crime. In pursuance thereof, he got recovered the mobile phone make VIVO TI 5G MODEL- V2141, COLOUR RAINBOW FANTASY with IMMEI NO. XXXXX7051744273 AND IMEI NO. XXXXX7051744265, containing SIM number XXX0870881 AIRTEL 4G 128K SIM-NO-TION 8991101805161406238U, which was used by him in the commission of the crime and the same were taken into police possession.

8.That accused Karthik, in his disclosure statement, had disclosed the complicity of Rohtash in the commission of present crime.

9. That during the course of further investigation, notice was issued to Rohtash calling upon him to join the investigation of the present case. He was joined with the investigation of the case and was put to question. Upon questioning, he suffered his disclosure statement admitting his involvement in the commission of the present crime. In pursuance thereof, he got recovered Rs. one thousand which he had received as a commission. He, in his disclosure statement, disclosed that due to financial constraints, he had approached the petitioner, who was an old acquaintance of his, regardingfinancial opportunities, to which the petitioner apprised him about his ongoing criminal acts wherein the petitioner and his associates would pose as customs officials and would extort money from people and commit fraud. He further stated that the petitioner had offered him 2% in commission(profit) in return of providing his bank account for the purpose of committing frauds. Accordingly, offence punishable under Sections 61(2), 111 BNS of 2023 were added to the case. The true translated reproduction of disclosure of accused Rohtash is being appended to along with the present affidavit as Annexure R-2."

REASONING:

7. Analysing would lead to the following outcome, which refer to paragraphs 17, 19, 20 and 21:

"xxx xxx xxx xxx

***17. ROLE OF THE PETITIONER**: That as per investigation, the petitioner is the prime accused in the commission of present crime. It had transpired that he, acting in league with the co-accused, had systematically defrauded the complainant with the aid of bank accounts and SIM cards specifically obtained to facilitate the crime. The co- accused had procured the bank accounts and SIM cards and provided them to the petitioner and he had taken the bank account Kit belonging to co-accused Karthik Saini and Durgesh from the co-accused Rohtash and had further sent it to co-accused Kalabut. Further, the ATM card of Durgesh's bank account had been recovered from the possession of the petitioner. It is further*

> *submitted that multiple debit cards linked to various bank accounts, along with several SIM cards, had been recovered from his possession. The recovery of numerous debit cards belonging to different individuals indicates the culpability of the petitioner Vinod in the commission of the offense.*
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> ***19. AMOUNT INVOLVED IN THE CRIME:*** *The victim had been duped of an amount of Rs. 11,40,000/- by the accused person and out of the same, recovery of only Rs.2500/- had been effected (Rs.1000/- from accused Rohtash and Rs.1500/- from the petitioner). An amount of Rs.5,66,250/- has been attributed to the petitioner.*
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> ***20. EVIDENCE PETITIONER BASED HAS ON WHICH BEEN ARRAYED THE ASACCUSED:*** *That as far the incriminating evidence which formed as a basis to array the petitioner as an accused in the present case is concerned, it is submitted that the name of the petitioner had surfaced in the disclosure statement suffered by the co-accused Rohtash.The co-accused Rohtash had disclosed that 2 bank accounts, in the name of co-accused Kartik and Durgesh, which were used to receive money from the complainant were being operated by the petitioner. The perusal of the bank account statement of the complainant revealed that an amount of Rs.2,00,000/- was found to be transferred to bank account operating in the name of Kartik Saini and Rs.3,66250/- were found to be transferred to the bank account operating in the name of Durgesh.*
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> ***21. EVIDENCE AGAINST THE PETITIONER****: That incriminating evidence against the petitioner includes (i) the disclosure of the petitioner's complicity by the co-accused Rohtash; (ii) disclosure statement of the petitioner wherein he admitted his involvement in the commission of the present crime; (iii) recovery of multiple debit cards and SIM cards in pursuance of his disclosure statement, as mentioned hereinabove and (iv) recovery of cash amounting to Rs. 1500/-."*

9. There is sufficient prima facie evidence connecting the petitioner as such, petitioner is not entitled to the bail on merits. However, considering the amount involved viz-a-viz petitioner custody coupled with the assurance made by the petitioner's counsel that he would live like a decent and honest person and would have no objection that his bail would be cancelled, if he repeats the offence. This Court is inclined to grant him one opportunity to mend his ways. However, pre-trial incarceration should not be a replica of post-conviction sentencing. Per the custody certificate dated 05.05.2025, the petitioner's total custody in this FIR is 04 months and 24 days. Given the penal provisions invoked viz-a-viz pre-trial custody, coupled with the primafacie analysis of the nature of allegations, and the other factors peculiar to this case, there would be no justifiability further pre-trial incarceration at this stage.

10. 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. This order shall come into force from the time it is uploaded on this Court's official webpage.

11. Given above, provided the petitioner is not required in any other case, the petitioner shall be released on bail in the FIR captioned above subject to furnishing bonds to the satisfaction of the concerned Court and due to unavailability before any nearest Ilaqa Magistrate/duty Magistrate. Before accepting the surety, the concerned Court must be satisfied that if the accused fails to appear, such surety can produce the accused.

12. 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)	

13. This order is subject to the petitioner's complying with the following terms.

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. ***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***.

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

17. 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.

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

(ANOOP CHITKARA)
JUDGE

19.05.2025
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Whether speaking/reasoned: Yes

Whether reportable: No.