IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-18588-2025
Reserved on: 01.05.2025
Pronounced on: 13.05.2025

Kushal Bhagat ...Petitioner

Versus

State of Punjab …Respondent

CORAM: HON'BLE MR. JUSTICE ANOOP CHITKARA

Present: Mr. Harsh Jain, Advocate,
for the petitioner.

Mr. Akshay Kumar, AAG, Punjab.

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ANOOP CHITKARA, J.

FIR No.	Dated	Police Station	Sections
13	25.01.2025	Goraya, District Jalandhar	406, 420, 120-B 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 11 of the bail petition, the accused declares that he has no criminal antecedents.

3. The facts and allegations are being taken from the translated copy of FIR annexed with the bail petition as Annexure P-1, which reads as follows:

> *"xxx xxx*
> *Complaint: Respected Sir, 1, Rajveer Sodhi, son of Shri Raunki, resident of village Garhi Maha Singh, Police Station Guraia, Tehsil Phillaur, District Jalandhar, submit the following complaint: I was acquainted with Accused Nos. 1 and 2, who informed me that they were Directors of RTCR Store Pvt. Limited. In December 2023, they told me that accused no. 1 and 2 were launching a ZERO HOUR STORE brand hypermarket (grocery, crockery, and cafe) at Global Business Park, Sarup Nagar, Jalandhar Bypass, GT Road, Ludhiana. They further claimed that they had leased 20,000 square feet of carpet area and that Global Business Park was becoming a major business hub. They lured me and said that I should minimum invest Rs.20,00,000 (Twenty Lakh Rupees) in their business so that I get a huge return. Accused no. 1 and 2 also assured me that I will*

get a 5% monthly return on the invested amount. Accused Nos. 3 to 5 also persistently encouraged me to invest in the company, making several fraudulent promises to deceive me into their scheme. They reassured me that many people had already invested large amounts, and they even provided me with a registered lease agreement dated 05-04-2023 to gain my trust. Regarding this lease agreement I met the original owner Mr. Avtar Singh Sandhu and he told that this lease agreement is absolutely true and correct and the lease agreement has been entered into between him with accused no. 1 and 2 and that he will open his hyper store soon. On which I became more convinced that they have actually leased an area in the Global Business Park and this Global Business and they are going to open a store in the park under the name of Hyper Market. They also told me that Accused No. 3 and 4 have a lot of experience In this and have been doing similar business and they have already opened a store in Gurgram under the name of AM-PM. I had fully believed in their false promises and I was totally caught in their fake trap. After this, I was more convinced that accused were going to open their own business and according to the assurance given by them, I was ready to Invest 20 lakh rupees in this business and this accused also lured me to invest again and again and also used to force me and I was completely lured by their false promises and dishonesty and I agreed to invest Rs 20 lakhs in the company they set up. 2 That in the month of January/February 2024, I handed over a total of ₹20,00,000 (Twenty Lakh Rupees) in cash to Accused Nos. 1 and 2 in the presence of Sikandar Ram Lambardar and Jaswinder Chand, son of Prakash Ram, residents of village Garhi Maha Singh, Tehsil Phillaur, at village Garhi Maha Singh, Tehsil Phillaur. When I handed over this amount to Accused Nos. 1 and 2, at that time, the other accused were also present, who were assuring me and also saying that your money is completely safe and you will not face any kind of loss and you will get the full benefit of your invested amount and you will start receiving a monthly return of 5% as soon as the store starts operating. That after collecting my money, all the above-mentioned accused had dishonest intentions. When I asked them about starting the business, they would make false excuses and keep delaying it and say that the business would start soon. Whenever I tried to have a conversation with them, they never gave me a proper answer. Accused Nos. 1 and 2 again assured me that your invested amount would generate a 5% monthly return starting in August 2024 because by August 2024, the store would be fully set up and operational. After that, I went to the location at Global Business Park that they had mentioned, where they were supposed to start their business.

When I reached there, I was shocked to see that the accused had not even begun setting up any business nor had they prepared any store. Then I realized that all of them had conspired together to cheat me and fraudulently collect ₹20,00,000 (Twenty Lakh Rupees) from me. Had I not trusted them, I would have never given them any money. They have also broken my trust. After this, I repeatedly asked the accused to return my money, which they had taken from me through illegal deception and false promises, but they refused to return the money they fraudulently collected from me. After my repeated demands, Accused No. 1 gave me a cheque of ₹20,00,000 (Twenty Lakh Rupees) with cheque number 001285 dated 17-09-2024, signed and issued with the consent of Accused No. 2. This cheque was issued from their company, RTCR Store Private Limited. When I deposited this cheque in my bank account for encashment, it was dishonoured (bounced) due to "Insufficient Funds" in their account. Now, when I ask them to return my money, the accused threaten me saying that if I ask for my money again, they will kill me. They claim to have high-level connections. Therefore, I request that a case be registered against these accused, my money be recovered, and justice be provided to me. Therefore, I humbly request that the aforementioned accused have committed fraud against me. And these accused, in collusion with each other, fraudulently took ₹20,00,000 (Twenty Lakh Rupees) from me by deceiving me with false promises and committing fraud against me. Therefore, a case should be registered against these accused for fraud and legal action should be taken against them. My money should be recovered from them and I should be provided justice according to law. I would be extremely grateful to you."

4. Counsel for the petitioner submits that he has no objection if this Court while granting bail imposes any stringent conditions. On instructions, counsel further submits that petitioner shall not repeat the offence and would not involve himself in the offence, where the sentence is more than 7 years and if he does so, he has no objection if the State files an application for cancellation of bail. He contends that 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 status report.

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

*"**EVIDENCE AGAINST THE PETITIONER:***

9. That an amount of Rs. 20 lakhs in cash was paid by the complainant to the petitioner Kushal Bhagat and co-accused Pankaj Chaudhary.

Furthermore, when the complainant asked the accused persons to return his money, the petitioner gave a cheque of Rs.20 lakhs vide cheque no.001285 dated 17.09.2024 which signed and issued by him.

ROLE OF PETITIONER:

10. That it is pertinent to mention herein that the petitioner is the main accused in the instant case FIR and it was on the assurance given by the petitioner and co-accused Pankaj Chaudhary that the complainant had paid an amount of Rs.20,00,000/- in cash for the purpose of setting up a store at Global Business Park. However, the complainant came to know that no such store as claimed by the petitioner and co-accused persons is being set up, the complainant asked the accused persons to return the amount given by him to which the petitioner gave a cheque of Rs.20 lakhs vide cheque no.001285 dated 17.09.2024 which was signed and issued by him."

REASONING:

7. Petitioner has clean antecedents, amount was paid to set up a store, on the demand of complainant, petitioner issued cheque to complainant which shows that dispute is of civil nature and when petitioner has issued cheque for the same amount, in case of dishonour of cheque, complainant is at liberty to file complaint under Section 138 NI Act, as such, petitioner is entitled to bail.

8. 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.

9. 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. 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.

10. 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.

11. 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)	

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

13. *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*. 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.

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

13.05.2025
Jyoti-II

Whether speaking/reasoned: Yes
Whether reportable: No.