

**IN THE HIGH COURT OF PUNJAB & HARYANA, CHANDIGARH**

Sr. No.: 115

Criminal Miscellaneous No.M-20085 of 2025**Date of Decision: April 09, 2025**Prem Bajaj

..... PETITIONER(S)

*VERSUS*State of Haryana

..... RESPONDENT(S)

CORAM: HON'BLE MR. JUSTICE SANDEEP MOUDGIL**PRESENT:** - Mr. Aditya Sanghi, Advocate, with Mr. Ranjan Lohan, Advocate, for the petitioner.**SANDEEP MOUDGIL, J (Oral)****1. Relief sought**

The jurisdiction of this Court has been invoked under Section 482 BNSS seeking pre-arrest bail in case FIR No.298 dated 08.08.2024, under Sections 318(2), 316(2) of Bharatiya Nyaya Sanhita, 2023 and Sections 406, 420, 467, 468, 471, 120-B IPC, registered with Police Station, Sirsa Sadar, District Sirsa.

2. Prosecution story setup in the present case as per the version in the FIR as under:-

Office of the Superintendent of Police. Dairy No.551-PESHI dated 01.07.2024 Sirsa 125055,

To the Superintendent of Police Sirsa.

Subject:- Application for initiating action against

1. Shiv Traders Proprietor e matter Rajesh Khanna Shop Number 61, Grain Market Rania District Sirsa, Mobile Number 93500-84445,

2. Shakib R/o Barley Uttar Pradesh presently working at presently working at Sunlight Rice Mill Private Limited Surtiya Road, Rori District Sirsa, Mobile Number 95480-36782,

3. Himiz Khanna office address underneath flyover Sirsa, District Sirsa, Mobile Number 99920-66001,

4. Rajesh Khanna son of Shri Sudarshan Khanna resident of Ward No. 6, House No. 49/2 Rania District Sirsa, Mobile No. 98966-51601.

Sir,

The applicant requests as under: -



1. *That the applicant is resident of Sirsa, District Sirsa and is peace loving and law abiding person and doing the work of Commission Agent under the name and style of M/s Sanjay Kumar & Company since many years at Grain Market Sirsa, District Sirsa.*
2. *That accused Number 4 who was running a firm under the name and style of Shiv Traders and is the proprietor of the, same, came to the applicant in the month of August 2022 with a proposal for opening a Rice Mill and allured the applicant that he will run the rice mill properly, at this, the applicant told him that he does not have any knowledge about rice mill and he is doing the work of Commission Agent continuously since the beginning. At this, accused No. 4 said that he had been working with Vipin Singla in Singla industries for many years, due to which he had acquired all the knowledge of running the rice mill smoothly and assured the applicant that he will himself run the rice mill in every way and will handover share of profit to the applicant every year. On the assurance of the accused Number 4, the applicant accepted his proposal for opening a rice mill. That thereafter after accepting the proposal, accused No. 4 introduced the applicant with the other accused persons in connection with the said rice mill and all the three accused under a well-planned conspiracy in order to cause financial and mental harm to the complainant and to unjustly enrich themselves kept contacting with applicant. Then applicant and accused No. 4 signed a partnership deed on 01.10.2022, whereupon it bears signatures of accused No.4 and accused 3 (Copy of Deed is annexed).*
4. *That after opening of rice mill it was agreed that the applicant shall look after the work of the market only and the accused No. 4 shall look after the work for buying, selling and manufacturing of the rice mill and accused No. 3 will maintain all the records of whatever Rice, Paddy shall be received and dispatched from the factory and without the signature/knowledge of accused no. 2 No goods shall be received or dispatched from the factory and accused No. 3 will prepare profit and loss account and will also prepare the necessary tax statements for paying tax to the Government. In this regard he was employed in the factory. It is also necessary to mention here that accused No. 4 had employed accused No. 2 and 3 in the factory and charge of the factory was handed over. That it is necessary to mention here that accused persons took the applicant under false assurance and took his signature on some blank papers and upon blank cheques by saying that the applicant is partner of 60 percent share and his signature is required for smooth running of the mill and also obtained the password of the applicant's online Bank account so that the accused No. 4 could do NEFT transaction etc.*
5. *That as per partnership deed, no partner should do anything against the firm or to cause damage to firm but in pursuance of their conspiracy all the accused persons signed the deed and took the applicant into their trust and thereby caused*



financial and mental injury to applicant. The accused no. 4 also started doing business in the name of Mahaluxmi Rice Mill and by keeping the applicant in the dark, all the accused persons started running business in the said mill but after sometime when the accused persons did not give any account and the share of profit to applicant then the applicant demanded the entire record of Mahaluxmi Rice Mill from the accused persons, on which the accused persons lingered on the matter and did not give record to the applicant whereas according to partnership deed, any partner can inspect the account and record of the firm, but the accused persons to achieve their nefarious design did not handover or showed any record to the applicant and the applicant was kept away from all types of work in Mahaluxmi Rice mill.

7. That the applicant tried many times to claim his rights as per the partnership deed and to see the work of Rice mill, but the said accused never provide any information to the applicant regarding the work being done inside the said rice mill. The returns or statements of Mahaluxmi Rice mill were prepared with the connivance of the said accused by keeping the applicant in the dark and same were signed by the accused no. 4 only.

8. That on the asking of accused no.4, the applicant purchased paddy till March 2023 from the market and sent the same to Mahaluxmi Rice mill and accused no. 4 assured the applicant that the rice mill was running well and they needed more goods and rice mill is not in loss.

9. That the accused no 4 has been running the firm Shiv traders Rania District Sirsa (under the name of accused No. 1) for many years and accused no. 1 is sole proprietor of the same. The accused have shown that they have sold goods of Mahaluxmi Rice mill to above said firm and kept on misappropriating said goods, accused number 4 in connivance with accused No. 2 and 3 kept on selling the goods from Mahaluxmi Rice Industries to Shiv Traders in this way they causing loss to Mahaluxmi rice mill and to applicant and in connivance with each other with an intention to embezzle the money and with an intention to cause loss to the applicant kept on materializing this illegal work and kept on procuring entire goods from Shiv Traders who is with accused No. 1 (Receipts and weighing slips can be produced upon demand) .

10. That total of 82500 quintals of paddy and total of 28050 quintals of rice was purchased in Mahaluxmi rice mill. The full account of which was never given/handed over to the applicant despite his demand. In September 2023, the applicant was told by the accused no. 1 that the said rice mill was running in losses and a lot of payments in respect of sale in Mahaluxmi rice mill had not been returned.

11. That when the applicant check all the records of Mahaluxmi Rice mill, then he got stunned to find that the accused persons in collusion with each other had sold about 33793.94 quintals of



goods like rice and paddy of Mahaluxmi Rice Mill to their firm Shiv traders (Accused no.1) and 3368 quintal goods were shown purchased from Shiv Traders and neither any receipt nor any bill for the sold goods was shown on the firm's account, for which only a simple receipt and bill slip is present, which shows that the goods is being sold to accused no. 1. That even not around an amount of Rs. 12 Crore accused Number 1 which this firm used to be run by accused No. 4 that the accused persons in connivance with each other have embezzled this amount from the applicant and his firm, which is still in their possession (Weighing slip and receipt can be produced upon demand).

12. That when the applicant asked the accused number 4 and 2 about the said amount, they said that they had to embezzled and commit fraud with him and now he cannot do any harm to them and they have filed the income tax returns and other returns in collusion with accused No. 3 and you cannot demand the record and money. Thereafter, the applicant with great difficulty somehow arranged the record of Mahaluxmi Rice mill and which revealed that goods were sent to Shiv traders Rania by Mahaluxmi rice mill.

13. That when the applicant enquired the matter at his own level, the applicant came to know that Shiv Traders Rania had purchased the goods from Mahaluxmi Rice mill and in this regard amount was embezzled by issuing some fake bill and a new rice mill namely Sun Light Rice Mill Ltd. Surtiya Road Village Rori, was opened by embezzlement amount and the accused was embezzling the goods of Mahaluxmi Rice Mill by the help of Sun Light Rice mill and further embezzling the profit of applicant by showing Mahaluxmi Rice Mill in losses and also cheating with the Government by presenting the fake documents.

14. That when the applicant contacted with the accused no. 3 and asked him to provide the correct record regarding the said rice mill or to get the return filed properly then the accused no. 3. clearly refused the applicant and accused no. 4 removed his mobile phone number from the website of Government and registered the mobile number of applicant.

15. That in concern of above incidence the applicant on dated 14.06.2024 had sent an application to your goodself by post, complaint number of which is 3027- P.U. dated 18.06.2024, that this application was marked to Police Station City Sirsa for proceedings and Police Station City Sirsa marked this application further for proceedings to j.J. Colony Police Post Sirsa. That till date neither Police Post J.J. Colony has initiated any action upon the application of the applicant, nor the statement of the applicant has been recorded nor till date the above accused have been called to the police station on the application of the applicant for documents and other records.

16. That the accused are politically connected and who have good highly influential persons, connections in the police and politics. Ever since the applicant filed the application against



them, the accused have been pressurizing the applicant and his family to take back the application and in case of not doing so, they are threatening to kill the applicant and his family and are openly saying that we have access to the top in the police, you cannot do anything to us.

17. That the accused also threaten the applicant by saying that you belong to a minority group and your society together cannot get back the amount embezzled by us and no officer can do any harm to us, if you take the legal action forward then you and your family will be killed. Keeping these facts in mind, a case should be registered against the accused under various sections of law for collusion, causing financial loss to Lakshmi Rice Mill, cheating the

applicant, breach of trust, cheating the applicant and the palace, presenting fake documents, misusing cheques and documents, breaking the partnership deed with the government and getting justice for the applicant. Sirsa

SD/- Sanjay Kumar applicant Sanjay Jain son of Gyan Chand Jain, partner Makalakshmi Rice Industries Industris, resident of Suratgaria Bazar Sirsa,

District Sirsa, Mobile No. 94162-57579.

Today at Police Station *upon arrival of a complaint No. 551-Peshi dated 01.07.2024 and 578-Peshi dated 09.07.2024 along with inquiry report of Incharge Economic Offence Wing Sirsa upon the application of Sanjay Jain son of Gyan Chand Jain, resident of Suratgaria Bazar Sirsa, against 1. Shakib R/o Bareilly Uttar Pradesh, presently working at Sunlight Rice Mill Private Limited Surtiya Road, Rori District Sirsa. 2. Himiz Khanna office under flyover Sirsa. 3. Rajesh Khanna son of Shri Sudarshan Khanna Resident of Ward No. 6, House No. 49/2 Rania District Sirsa for breach of trust and for commission of cheating with Mahaluxmi Rice Mills causing financial loss in the area of Village Sikandpur was received by post from the office of Superintendent of Police Sirsa in Police Station, keeping in view of the contents of the same offence is made out under section 316(2), 318(2) BNS, upon the application case No. 298 dated 08.08.2024 was registered under section 316(2), 318(2) BNS at Police Station Sadar Sirsa.*

3. **Contention**

On behalf of the petitioner

Learned counsel for the petitioner contends that purchased fake bills were credited to the account of the petitioner. Moreover, main accused Rajesh Khanna and co-accused Mohd. Shakeeb have already been granted anticipatory bail by this Court vide orders dated 19.09.2024 in CRM-M-



46700-2024 (Annexure P-15) and 27.02.2025 in CRM-M-11152-2025 (Annexure P-17) and the petitioner stands on a far better footing than both of the above mentioned co-accused. He further submits that petitioner is willing to join the investigation and cooperate with the investigating officer concerned.

Notice of motion.

On the asking of the Court, Mr. B.S. Virk, Senior DAG Haryana, accepts notice on behalf of the respondent-State.

Mr. Vinay Gupta, Advocate, accepts notice on behalf of the complainant.

On behalf of the State as well as complainant

Learned State Counsel assisted by the counsel for the complainant have opposed the prayer for grant of anticipatory bail to the petitioner stating that it is an admitted fact that the complainant signed a partnership deed on 01.10.2022, wherein, it was agreed that the complainant shall look after the work of the market only and the petitioner shall look after the work for buying, selling and manufacturing of the rice mill and the complainant has given a stock to petitioner for milling and selling it in the market but the petitioner has transferred it to Rania from Sirsa and has sold it in a different market without the permission and signature of the complainant. On that account, he alleges an offence of cheating and fraud committed upon the complainant.



4. **Analysis**

Ater giving a thoughtful consideration to the submissions as made, by the counsel for the parties, this Court prima-facie finds it a case of contractual obligation and no criminal liability can be fastened upon the petitioner, hence no reason is made out to deny the petitioner the concession of anticipatory bail, wherein the petitioner has bona fide intentions and is willing to join the investigation and cooperate for furtherance of the same so that the final report can be submitted by the Investigating Agency within the stipulated time period.

5. **Relief**

In the light of above, the petitioner is directed to be released on anticipatory bail subject to him joining investigation with the Investigating Officer concerned within a period of one week from today, on furnishing of personal/surety bonds to his satisfaction for the reason that custodial interrogation of the petitioner is not required as it would be of no fruitful purpose to put the petitioner behind the bars. The petitioner shall also abide by the terms and conditions as envisaged under Section 482(2) of BNSS, which are reproduced below:-

‘When the High Court or the Court of Session makes a direction under sub-section (1), it may include such conditions in such directions in the light of the facts of the particular case, as it may think fit, including-

(i) a condition that the person shall make himself available for interrogation by a police officer as and when required;

(ii) a condition that the person shall not, directly or indirectly, make any inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade him from disclosing such facts to the Court or to any police officer;

(iii) a condition that the person shall not leave India without the previous permission of the Court;



(iv) such other condition as may be imposed under sub-section (3) of section 480, as if the bail were granted under that section.’

However, it is made clear that in case the petitioner does not comply with the aforesaid direction of joining the investigation within a period of one week and comply with the aforesaid condition under Section 482(2) of BNSS, 2023, the order passed by this Court today shall automatically stands cancelled.

In the aforesaid terms, the present petition stands allowed.

(SANDEEP MOUDGIL)
Judge

April 09, 2025
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Whether Speaking/ Reasoned:
Whether Reportable:

Yes/ No
Yes/ No