2025:PHHC:053009

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IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRM-M-21961-2025
DECIDED ON: 25.04.2025

RUBALJIT SINGH

.....PETITIONER

VERSUS

STATE OF PUNJAB

.....RESPONDENT

CORAM: HON'BLE MR. JUSTICE SANDEEP MOUDGIL

Present: Mr. Rahul Bhargava, Advocate and
Mr. Prikshit Thakur, Advocate
for the petitioner.

SANDEEP MOUDGIL, J (ORAL)

1. Prayer

The jurisdiction of this Court has been invoked under Section 482 BNSS, 2023 (earlier Section 438 Cr.P.C.,) for grant of anticipatory bail to the petitioner in FIR No.0005, dated 09.02.2025, under Sections 408, 420 of IPC, registered at Police Station City Ahmedgarh, District Malerkotla.

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

> *"To the Senior Superintendent of Police, Malerkotla Subject: Request for Legal Action / Registration of FIR under Sections 408, 418, 420, 465, 467, 468, 471, 323, 506 IPC and other relevant provisions against Rubaljit Singh, son of Avtar Singh, son of Harbans Singh, resident of village Saharanmajra, Tehsil Payal, District Ludhiana, Mobile No. 84535-50004, Respected Sir, The complainant humbly submits the following application: The applicant is a partner in the*

firm M/s Raja Enterprises, located at Doctor Sarao Wali Gali, Mandi Ahmedgarh. This firm deals in the purchase and sale of agricultural tools, machinery, spray pumps, etc., and sends these goods to buyers in the form of parcels through the post office. The accused, Rubaljit Singh, was employed as a clerk in the said firm, and his primary responsibility was to send the parcels of sold or repaired items to customers through the post office. The accused used to take parcels from the firm daily to the post office, collect the receipts, and return them to the office in a sealed packet. On this packet, he would write the amount, number of receipts, and date, and based on this information, he would collect the payment from the firm. The firm, without verifying the total of the receipts, relied on the amount written on the packet by the accused and made the payments in good faith. The records of the payments made to the accused are maintained in the firm's account books, which are updated regularly through a computerized system. The firm follows proper bookkeeping procedures in its business transactions. The applicant trusted the accused, and thus, never suspected any discrepancies in the amount mentioned on the packet. However, the accused had dishonest intentions from the beginning and had joined the firm with the intention of deceiving the applicant. On April 20, 2024, an employee of the firm, who wished to remain anonymous, informed the applicant that the accused had been inflating the amounts on the packets, writing figures higher than the actual total of the receipts to fraudulently collect excess money from the firm. Upon this revelation, the applicant checked the entire financial record of the accused and discovered that from January 1, 2023, to April 19, 2024, the firm had sent a total of 11,611 parcels through the accused. The total amount of receipts submitted by the accused to the office was ₹15,93,856, but he fraudulently collected ₹20,46,518 from the firm, thereby embezzling an excess amount of 4,52,662. The account statements for FY 2023-2024 are annexed as Annexure 'A', and for FY 2024-2025 as Annexure 'B'. Further investigation revealed that out of 11,611 parcels, for 7,860 parcels, the actual payable amount was 10,44,586, *but the accused wrongfully collected ₹14,97,248 from the firm. The details of this fraud are attached as Annexure 'C'. Photocopies of the receipts, along with the manipulated entries made by the accused regarding the amount, receipt count, and date, are attached as Annexure 'D'. When the applicant confronted the accused regarding the misappropriation, he denied taking extra money and falsely claimed that he only collected the exact amount paid to the post office. Then I brought him into the office and asked what should be done with him, and told him that why not this matter should be reported to the police and he be removed from his job. At this, the accused became aggressive, started abusing and threatening the applicant, and attempted to assault him. He further threatened to kill the applicant if any action was taken against him. After issuing these threats, the accused fled from the office, leaving behind his motorcycle outside and his bag inside the office. The accused has betrayed the applicant's trust and has hurt the applicant's confidence and intentionally caused financial losses to the firm by manipulating and falsifying receipts, thereby fraudulently obtaining ₹4,52,662 more than he was entitled to. By doing so, he has committed offenses punishable under Sections 408, 418, 420, 465, 467, 471 IPC. Additionally, by pushing the applicant, threatening to kill him, and attempting physical assault, he has also committed offenses under Sections 323 and 506 IPC. Therefore, the applicant humbly requests legal action against the accused and the registration of an FIR under Sections 408, 418, 420, 465, 467, 471, 323, and 506 IPC, along with any other applicable provisions of law. Dated: 03.05.2024 Sd/- Sanjeev Garg s/o Kewal Chand s/o Charanji Lal r/o Laxmi Narayan Market, Mandi Ahmedgarh partner firm m/s Raja Enterprises, Sarao Wali Gali Mandi, Ahmedgarh. On the application, office of the Hon'ble SSP Sahib Malerkotla assigned number 625/P dated 03.05.2024. The enquiry was entrusted to the DSP, Sub-Division Ahmedgarh, to enquire into the matter of Report vide number 173/P/DSP/Sub-Division Ahmedgarh dated 18.06.2024. The brief conclusion of the enquiry is as follows: During the enquiry of the* *application/ complaint, from the applicant's statement and the records produced, it was found that the applicant is a partner in the firm M/s Raja Enterprises, located in Doctor Sarao Wali Gali, Ahmedgarh. This firm deals in the purchase and sale of agricultural tools, machinery, spray pumps, etc. The goods sold or repaired by the firm are dispatched to customers via parcels through the post office. Rubaljeet Singh, son of Avtar Singh, resident of Village Saharanmajra, Tehsil Payal, was employed in the firm as a clerk. He used to take parcels from the firm to the post office and bring back the receipts, which he would submit to the firm's office, and based on the number and value written on the parcel and receipt, he would receive the payment from the firm. The firm, trusting Rubaljeet Singh, would make payment based on the amount written on the receipts submitted by him. The payments made to Rubaljeet Singh were recorded in the firm's accounts/books maintained via computer. Later, a staff member of the firm informed the applicant that Rubaljeet Singh had been submitting inflated amounts on the receipts and had been receiving more money than actually spent. On reconciliation, it was found that between 01.01.2023 to 19.04.2024, a total of 11,161 parcels were sent. As per the receipts submitted by Rubaljeet Singh, the actual expense was Rs. 15,93,856, but he received Rs. 20,46,518 from the firm, thereby misappropriating an excess of Rs. 4,52,662. The applicant has submitted a written statement regarding the amount paid for the parcels sent during 2023-2024 (marked as Annexure A) and also for parcels sent during 2024 (marked as Annexure B). A comparative detail of actual postal costs and payments made to Rubaljeet is marked as Annexure C, and copies of receipts from the years 2023 and 2024 are marked as Annexure D. When questioned about this, Rubaljeet Singh fled from the firm. Further scrutiny of January 2024 records revealed that Rubaljeet Singh submitted 269 receipts from period 01.01.2024 to 31.01.2024, whereas the firm's records show only 195 parcels were sent- indicating a discrepancy of 74 parcels. No record of the goods allegedly sent in these 74 parcels is currently not available with the firm, which necessitates proper* *investigation during the course of the criminal case. Therefore, Rubaljit Singh, son of Avtar Singh, resident of village Saharanmajra, Tehsil Payal, District Ludhiana, while being employed as a clerk in the firm M/s Raja Enterprises from 01.01.2023 to 19.04.2024, sent a total of 11,161 parcels and collected an amount of 20,46,518/- from the office by inflating the amounts on the original receipts, whereas the actual total of the original receipts was ₹15,93,856/-. Thus, he fraudulently collected ₹4,52,662/- in excess by dispatching 74 additional parcels of goods without proper record, thereby committing a prima facie offence under Sections 408 and 420 of the Indian Penal Code, which necessitates the registration and investigation of a criminal case and it is necessary to register a case and conduct an investigation. Report Submitted. Sd/- Deputy Superintendent of Police Sub-Division Ahmedgarh Dated: 18.06.2024. On this report, the Hon'ble SSP Sahib Malerkotla wrote: "SHO To Register Case And Investigate The Matter" Sd/- [Signature in Hindi] Dated: 07/02/2025 Upon receipt of the above order, an FIR has been registered against the accused Rubaljeet Singh for the aforementioned offences. Further investigation has been assigned to ASI Praveen Kumar 1288/Sangrur. A copy of the FIR has been forwarded to the area magistrate and senior officers. The FIR has also been recorded and sent to the control room Malerkotla via email."*

3. **<u>Contention</u>**

<u>On behalf of the petitioner</u>

The learned counsel for the petitioner submits that the FIR in question is illegal and unsustainable, as it was registered on 09.02.2025 under provisions of the IPC, which were repealed with effect from 01.07.2024. Therefore, no action can be initiated against the petitioner based on the said FIR. On merits, he contends that the present FIR is counterblast to civil suit, which is pending between the parties.

Notice of motion.

On behalf of the State/complainant

On the asking of Court, Mr. Jastej Singh, DAG Punjab, accepts notice on behalf of respondent/State and does not controvert the above-said fact. Additionally on merits he submits that the dispute revolves in the instant petition is civil in nature.

4. **Analysis**

Be that as it may, having given a considerable thought to the submissions made hereinabove especially to the fact that the dispute is admittedly civil in nature and a civil dispute is pending between the parties added with the fact that the petitioner is having clean antecedents, as he is not involved in any other case, this Court is of the considered view that there is no valid or cogent reason to deny the bail to the present petitioner, wherein he has *bona fide* intentions and is ready and willing to join the investigation and cooperate for furtherance of the same so that the final report can be submitted by the Investigating Agency in time.

5. **Relief:-**

Hence, the petitioner is directed to be released on anticipatory bail subject to his joining investigation with the Investigating Officer concerned within a period of one week from today, on furnishing of personal/surety bonds to his satisfaction. 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, the order passed by this Court today shall automatically stands cancelled.

In the aforesaid terms, the present petition stands allowed.

(SANDEEP MOUDGIL)
JUDGE

25.04.2025
Meenu

Whether speaking/reasoned *Yes/No*
Whether reportable *Yes/No*