IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-25935-2024
Reserved on: 19.03.2025
Pronounced on: 25.03.2025

Sukhdev Singh ...Petitioner

Versus

State of Punjab …Respondent

CORAM: HON'BLE MR. JUSTICE ANOOP CHITKARA

Present: Mr. Rajesh Bhateja, Advocate
for the petitioner.

Mr. Sukhdev Singh, AAG, Punjab.

Ms. Nisha Rana, Legal aid counsel
for the complainant.

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ANOOP CHITKARA, J.

FIR No.	Dated	Police Station	Sections
174	24.11.2023	Nihal Singh Wala, District Moga	420 IPC

1. The petitioner apprehending arrest in the FIR captioned above has come up before this Court under Section 438 CrPC seeking anticipatory bail.

2. In paragraph 6 of the bail petition, the accused declares that he has no criminal antecedents.

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

> *"That brief facts of the case are that complainant moved an application before the SSP, Moga with the allegations that after the death of his father Kaka Singh, he moved an application before Patwari, Halqa, of revenue department in the year of 2017 to get sanctioned the mutation in his favour on the basis of Will. However, due to non-deposit of requisite fee, the mutation was not sanctioned by the revenue department. In the month of August 2022 petitioner Sukhdev Singh approached the complainant and informed him that the land of the complainant situated in the area of village Manuke, District Moga is being acquired for National Highway. The petitioner further told the complainant that he will get sanctioned the*

mutation of said land in favour of complainant as he has good links with Patwari Halqa and he also assured that he will also get transfer the amount/compensation being paid by NHAI in the account of complainant and against said work he will get share from the said amount of compensation. The petitioner took the complainant into his confidence and given his consent for the same. As per demand of petitioner the complainant had handed over three blank signed cheques bearing No. 495691, 595692 and 495693 and another blank signed cheque no. 495694 to the petitioner for depositing the same with National Highway Authority for the verification of the account. The complainant further mentioned that CALA DRO Moga and PD NHAI had deposited the amount of Rs.6,13,649/-, 6,27,457/- and Rs.4,81,179/- in the account no.1371100100004905 of the complainant on 08.12.2022 and when this fact came into notice of petitioner, he had transferred the amount of Rs.5,31,000/- through cheque no.495691 dated 09.12.2022, Rs.5,40,000/- through cheque no.4995692 dated 09.12.2022 and Rs.6,50,000/- through cheque no.495693 dated 12.12.2022 from the account of complainant into the account of his Rasulpur Multi Diary with intention to commit fraud with the complainant. When complainant came to know about said fraud of petitioner, he approached the petitioner, then petitioner started making false excuses to the complainant and lateron he refused to pay the said amount to the complainant.

That on the basis of said application, the enquiry as conducted by the then Deputy Superintendent of Police, Nihal Singh Wala. During enquiry it was found that father of complainant was owner in possession of land measuring 2 Kanal 5 Marlas situated in the area of village, Manu Ke, District Moga. After the death of Kaka Singh, mutation of his inheritance was sanctioned in favour of complainant vide mutation no.11402 dated 10.09.2022. After that said land was acquired for National Highway and in this regard an amount of Rs. 17,22,285/- was transferred in the account no.1371100100004905 of complainant by the CALA, District Revenue Officer, Moga as per rules. Out of said amount, the petitioner has transferred Rs.5,31,000/- through cheque no.495691 dated 09.12.2022 and Rs.5,40,000/- through cheque no.495692 dated 09.12.2022 in the bank account no.0789000106060881 i.e. joint account of petitioner and his wife and petitioner had also transferred Rs.650000/- in the bank account no.0789000106044661 in his account with Rasulpur Multipurpose Cooperative Society through cheque no.495693 dated 12.12.2022. In this way petitioner had transferred total amount of Rs.

> *17,21,000//-in his bank account from the account of complainant. Thereafter out of said amount, petitioner had transferred Rs. 15000/- in the account of petitioner. During enquiry it is found that petitioner had played a fraud amounting to Rs.17,06,000/- with the complainant. After completion of enquiry and obtaining opinion from DA (L), Moga, present case has been registered against the petitioner."*

4. The petitioner's counsel prays for bail by imposing any stringent conditions and contends that further pre-trial incarceration would cause an irreversible injustice to the petitioner and their family.

5. The State's counsel opposes bail and refers to the reply. Legal aid counsel appearing on behalf of the complainant oppose the bail on the ground that poor farmer has been cheated by the petitioner.

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

> *"Role of the petitioner: Father of complainant was owner of land measuring 2 Kanal 5 Marlas situated in the area of village Manu Ke, District Moga. Complainant could not get sanctioned the mutation of inheritance of said land in his favour on the basis of Will. As said land was acquired by the Competent Authority for National Highway, so petitioner approached the complainant and assured him that he will get sanctioned the mutation of said land in favour of complainant and will also get release the amount of compensation from concerned department in favour of complainant and against said work he will receive his share from the amount of compensation. In this regard petitioner obtained three blank signed cheques from the complainant. After that concerned authority had transferred total Rs.17,22,285/- in favour of complainant. Out of said amount, petitioner transferred total Rs.17,21,000/- in his account from the account of complainant by misusing the blank signed cheques of complainant. Out of said amount petitioner had returned Rs.15000/-to the complainant. In this way petitioner had played fraud amounting to Rs.17,06,000/- with innocent complainant."*

REASONING:

7. Allegations against the petitioner are that he misused the cheques given by the complainant and transferred the amount of Rs.17,22,285/- in his account from complainant's account. Petitioner voluntarily declared his assets and handed over duly notarized affidavits, one to the State counsel and one for the complainant through his counsel, which made him entitle for 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, subject to the compliance of terms and conditions mentioned in this order. 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

25.03.2025
anju rani

Whether speaking/reasoned: Yes
Whether reportable: No.