



CRM-M-24054-2025
215 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-24054-2025
Decided on: 07.07.2025

Pushpender Kumar ...Petitioner

Versus

State of Haryana ...Respondent

CORAM: HON'BLE MR. JUSTICE ANOOP CHITKARA

Present: Mr. A.K. Dahiya, Advocate
for the petitioner.

Ms. Trishanjali Sharma, DAG, Haryana.

Mr. Ketan Antil, Advocate
for the complainant.

ANOOP CHITKARA, J.

FIR No.	Dated	Police Station	Sections
247	06.08.2024	Bahalgarh, District Sonipat	406 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 17 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 the brief facts of the case are that the complaint dated 19,03,2024 filed by the Residential Society, Omax Height, Sector-8, Sonipat, regarding misappropriation of amount of electricity bill of residential society, Omax Height, Sector-8, Sonipat after conducted the enquiry by the Economic Offence Wing Sonipat, received at Police Station Bahalgarh on 06.08.2024, with the recommendation for registration the case. In the complaint it has been alleged that there are 702 flats in the society and



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near about 600 families are residing therein. Elections of office bearers of Resident Welfare Association of society was conducted in August, 2020, for three years, wherein, Vishal Yadav (President). Shrawan Kataria (Secretary), petitioner Pushpender Vats (Vice President), Shilpa Vohra (Treasurer) and Pankaj Mehta (Joint Secretary) were elected. Besides above said office bearers, six executive members were also elected. Thereafter, President, Joint Secretary and four executive members resigned. Society hired App. of Xenius Company for maintenance and counting daily consumption of electricity. All record of Xenius Software App is being maintained in the server of company which is controlled by Xenius Company. The residents of society uses prepaid system for payment of electricity bill and maintenance bill. Some residents deposits in cash also. RWA of Society maintains accounts in Axis Bank Sector-14, Sonipat (C/A No. 920020065803627 and S/B No.920010069165214) and in Bank of India, Murthal (C/A No. 672410210000018). They came to know through RWA accounts statement of Axis Bank that daily Rs.30 to Rs.35 thousand were being deposited for consumption of electricity and maintenance with RWA, and, near about Rs.9 lacs were being deposited in cash with RWA, but, no cash amount collected from 18.09.2022 to 25.06.2023 (for 9 months) by RWA team was deposited in account. Thereafter, from 26.06.2023 to 30.09.2023, only 4.5 lakh were deposited. In this way, during 12 months i.e. from 18.09.2022 to 30.09.2023, around rupees one crore has been misappropriated. Further by not depositing the electricity bill in electricity department, they have committed fraud with residents of society. Electricity bill of Rs.2.36 crore is due towards society.

3. That on the basis of above complaint case FIR No. 247 dated 06.08.2024 under sections 406 IPC was registered at Police Station, Bahalgarh, District Sonipat and further investigation was set into motion.”

4. The petitioner's counsel has handed over an affidavit to the investigator declaring that he will not contest the election of Omax Height society till pendency of the trial. He further prays for bail by imposing any stringent conditions and contends that 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.



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

“7. That the petitioner was Vice President of the Resident Welfare Association and, he was authorized signatory, meaning thereby, without signatures of petitioner no amount could have been withdrawn from the bank. As per record an amount of Rs. 1,64,52,422/- has been misappropriated. Record is still in the possession of the then management of RWA, of which, petitioner was the part as Vice President. As such custodial interrogation of the petitioner is necessary for recovery of record and amount misappropriated as well as through investigation.”

REASONING:

7. Given the undertaking by the petitioner in the affidavit, this Court deems it appropriate to grant opportunity to course correct.

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 prima facie 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 Ilqa 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)	



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4.	E-Mail id (If available)	
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12. The petitioner is directed to join the investigation 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.

13. 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.

14. 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.

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.

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

(ANOOP CHITKARA)
JUDGE

07.07.2025
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Whether speaking/reasoned: Yes
Whether reportable: No.