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IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

1. CRM-M No.27673 of 2024

Deepak Kumar Chaudhary

….. Petitioner

Versus

State of Punjab

….. Respondent

2. CRM-M No.5655 of 2025

Deepak Kumar Chaudhary ....Petitioner

Versus

State of Punjab ....Respondent

Date of decision: 26.03.2025

CORAM: HON'BLE MR. JUSTICE RAJESH BHARDWAJ

Present: Mr. Tejender K. Joshi, Advocate and
Mr. Rajinder K. Bajaj, Advocate
for the petitioner.

Mr. J. S. Arora, AAG, Punjab.

Mr. Ashok Giri, Advocate and
Mr. Mohit Giri, Advocate
for the complainant.

<u>RAJESH BHARDWAJ J.</u>

1. By this order I intend to dispose of abovesaid two petitions as both have arisen out of the same FIR.

2. CRM-M-27673-2024 has been filed for grant of regular bail to the petitioner in case FIR No.277 dated 24.12.2023, under Sections 406, 420, 465, 467, 468, 471, 120-B of Indian Penal Code, registered at Police

Station Division No.6, Police Commissionerate Jalandhar, District Jalandhar during the pendency of the trial. In another petition bearing CRM-M-5655-2025, the petitioner has prayed for setting aside the order dated 18.01.2025 passed by learned Additional Sessions Judge, Jalandhar whereby the second bail application filed by the petitioner under Section 483 of BNSS challenging the order dated 07.01.2025 passed by learned Chief Judicial Magistrate, Jalandhar on bail application of petitioner under Section 480(6) of BNSS declining the bail sought for by the petitioner, was dismissed.

3. Succinctly the facts of the case are that FIR in the present case was recorded on the statement of Jasbir Singh, Director of M/s Amrit Malwa Capital Limited. It was alleged that his company is registered with RBI and is duly incorporated under the Indian Companies Act. The company is primarily engaged in the business of financing two wheelers. Deepak Kumar Chaudhary (petitioner) was the dealer of Automobiles and he approached their company office at Jalandhar by representing that he was running the business under the name and style of M/s Deepak Motors. He assured them that he would be dealing with their company and would finance the vehicles on behalf of their company. On his representation, their company entered into an agreement with him and their company started making advance payment to him in his bank accounts. A sum of Rs.1,71,78,879/- (Rupees One Crore Seventy One Lacs Seventy Eight Thousand Eight Hundred Seventy Nine only) was transferred in the account of said Deepak Kumar Chaudhary, i.e. the petitioner. However,

Deepak Kumar Chaudhary in connivance with the co-accused forged and fabricated the bills/invoices and filled the files regarding the financing of the vehicles by showing the same to have been sold to different persons whereas actually there was no such sale. Thus, he misappropriated the amount so advanced by the complainant's company to Deepak Kumar. That all the accused in conspiracy with each other misappropriated an amount of Rs.2,10,23,250/- (Rupees Two Crore Ten Lacs Twenty Three Thousand Two Hundred and Fifty only) by forging the bills/invoices in the names of different fictitious persons and the files of respective loan cases were prepared incorrectly and the record was also tampered in this regard. The request was made to take the legal action against all the accused. On registration of the FIR, the investigation commenced. The petitioner was arrested on 17.02.2024. He approached the Court of learned Additional Sessions Judge, Jalandhar twice praying for the grant of bail. However, after hearing both the sides, both the petitions filed by the petitioner were declined by the learned Additional Sessions Judge, Jalandhar vide his order dated 09.04.2024/18.01.2025. Hence being aggrieved the petitioner is before this Court by way of filing abovementioned two petitions praying for the grant of bail.

4. Learned counsel for the petitioner has vehemently contended that the petitioner has been falsely implicated in this case and the agreement for financing the vehicle alleged to have been entered into between the petitioner and the complainant-company at Jalandhar was never signed or executed by the petitioner. He has submitted that the

agreement was said to have been entered into between the petitioner and the complainant's company at Jalandhar, however he never signed or executed any such agreement for financing the vehicles. He has submitted that the petitioner was an authorized dealer of M/s TVS Motors since 09.07.2015. But during Covid-19, he suffered a setback in his business and in the year 2021, he decided to abandon his business. He has submitted that the building in which the petitioner was running the abovesaid agency was in the name of brother of petitioner, namely, Satyaveer Singh. Brother of the petitioner gave the abovesaid building of the agency to Manoj Kumar and Bansi for running the agency of motorcycles of TVS Motors and rent deed was executed on 02.09.2021. He has submitted that Manoj Kumar and Bansi had started the same agency, i.e. TVS Motors in the same premises and also obtained the registration under the GST Act. They requested the petitioner to allow them to use his bank account on the ground that they were facing some problem in opening the bank account. He has submitted that as the petitioner could not predict the other designs of Manoj Kumar and Bansi, hence he had fallen in the trap of these two persons. He has submitted that the agreement as alleged does not bear the signature of petitioner. He has submitted that the employees of complainant were responsible for the whole process of verifying the documents and thereafter for the approval, sanction and disbursement of the loan to different customers. He has submitted that the alleged agreement was executed on 21.05.2022 whereas the complaint was filed by the complainant on 18.05.2023, i.e. after more than a year. He has submitted that complicity of the petitioner is not prima facie proved in the present case. He has submitted that the petitioner is behind bars since the date of his arrest, i.e. 17.02.2024. He has submitted that the charges in the present case were framed on 18.10.2024 and the first date fixed for evidence of prosecution was 30.10.2024. Thus, the period of 60 days required for conclusion of evidence of the prosecution as per Section 480(6) of BNSS was already expired, entitling the petitioner to be released on bail but learned Chief Judicial Magistrate vide order dated 07.01.2025 wrongly and illegally declined the bail to the petitioner. He has further stated that the said order was challenged by the petitioner before learned Additional Sessions Judge, Jalandhar and the learned Additional Sessions Judge vide order dated 18.01.2025 again fell in error in declining the bail to the petitioner. He has further stated that the order dated 07.01.2025 passed by learned Chief Judicial Magistrate and order dated 18.01.2025 passed by learned Additional Sessions Judge are without any justification and are liable to be set aside and the petitioner should be held entitled to be released on bail under Section 480(6) of BNSS.

5. Learned counsel for the complainant has vehemently opposed the submissions made by learned counsel for the petitioner and has stated that the offence committed by the petitioner is serious one and a fraud of more than Rs.2.00 crores was committed by the petitioner and as such, he is not entitled to be released on bail and the present petitions are liable to be dismissed.

6. *Per contra*, learned counsel for the State has also opposed the

submissions made by learned counsel for the petitioner. He has drawn the attention of this Court to the status report filed by way of an affidavit of Harjinder Singh, PPS, Assistant Commissioner of Police, Model Town, Jalandhar. He has submitted that the petitioner is the master mind of duping the complainant with an exorbitant amount of Rs.2,10,23,250/-. He has submitted that the petitioner approached the complainant's company and after entering into the agreement, a sum of Rs.1,71,78,879/- was transferred in his account. He has submitted that this amount was misappropriated by the petitioner in conspiracy with the co-accused. He prepared 173 forged invoices/documents by showing the vehicles having sold to different persons and got transferred a sum of Rs.1,63,06,108/- in his bank account. He has submitted that this money was misappropriated by him in connivance with Bansi Lal and others. He has submitted that Bansi Lal stated that this amount of Rs.1,63,06,108/- was withdrawn and purchased various vehicles and shared the remaining sum with petitioner and other co-accused. He has submitted that the ample evidence was collected against the petitioner during the investigation and after filing the complaint, the charges were framed and now the trial is at the initial stage. He has further submitted that as far as the application filed by the petitioner under Section 480(6) of BNSS is concerned, though the order passed by learned Chief Judicial Magistrate and learned Additional Sessions Judge, Jalandhar are self-speaking and they have rightly declined the relief of bail prayed for by the petitioner. He has submitted that keeping in view the gravity of offence and the conduct of the petitioner, he does not deserve the concession of bail.

7. I have heard learned counsel for the parties and perused the record with their able assistance.

8. On hearing learned counsel for the parties and perusing the record, it is deciphered that the petitioner has been alleged to be the main accused, who by representing himself as a dealer in the company entered into an agreement with the complainant's company. An amount of Rs.1,71,78,879/- was advanced by the complainant by depositing the same in the account of petitioner. 173 invoices/documents were forged and the sum advanced by the complainant was misappropriated. Though the amount was transferred by the complainant's company for the purchase of vehicles, however no vehicle was found to have been purchased. As submitted before this Court, only one witness has been examined out of 12 prosecution witnesses. Perusal of the record shows that the chief of PW-1 was recorded on 27.11.2024 and thereafter, accused-petitioner himself moved an application on 13.11.2024 for referring the matter to hand-writing expert for verification of his signatures on the agreement. Learned Court of Chief Judicial Magistrate has given sufficient cause for not fixing the case on day-to-day basis. It has been held that keeping in view the pendency of cases before the Court, case of the accused cannot be taken on day-to-day basis. Learned Court has also held that there are number of witnesses to be examined by the prosecution which would take sufficient time and the reasons given by learned Chief Judicial Magistrate for declining the application under Section 480(6) of BNSS cannot be said to

be invalid or illegal in any manner. Similarly, learned Additional Sessions Judge, Jalandhar vide order dated 18.01.2025 has passed the reasoned and detailed order declining the relief claimed by the petitioners under Section 480(6) of BNSS.

Section 480(6) of BNSS read as under:-

> *(6) If, in any case triable by a Magistrate, the trial of a person accused of any non-bailable offence is not concluded within a period of sixty days from the first date fixed for taking evidence in the case, such person shall, if he is in custody during the whole of the said period, be released on bail to the satisfaction of the Magistrate, **unless for reasons to be recorded in writing, the Magistrate otherwise directs**.*

9. Corresponding Section of 480(6) of BNSS in the Cr.P.C. is 437(6). The Hon'ble Supreme Court of India in "***Subhelal @ Sushil Sahu vs. The State of Chhattisgarh***", **2025 All SCR (Crl.) 644** has held as under:

> "9. Sub-section (2) of Section 437 of the Code can be divided in two parts. The first part would indicate that it is mandatory, but in the next breath, the legislature has given discretion to the Magistrate not to grant bail by assigning reasons. In that situation, although the first part can momentarily said to be mandatory, it cannot be interpreted to give an indefeasible right to the accused of being released on bail, since that right is controlled / regulated by the later part of the sub-section. If legislature had stopped at the end of the first part, making it mandatory for the Magistrate to release the accused on bail if the trial is not over within 60 days from the first date of taking

evidence, provision would have been somewhat akin to sub-section (2) of Section 167 of the Code. But, with the second part being in its place, the two provisions cannot be equated. The provision of sub-section (6) of Section 437 can certainly be said to have been inserted with an intention to speed up the trial without unnecessarily detaining a person as an under-trial prisoner for a prolonged time. Contrary to that, Section 167(2) leaves no room for any discretion with the Court so far as release of an accused on bail is concerned in the given set of circumstances. Under this provision of the Code no reason is good to deny bail to the accused.

10. Later part of sub-section (6) of Section 437 of the Code empowers a Magistrate to refuse bail by assigning reasons. In our view, the legislature, has incorporated this provision with a view to recognize right of an accused for a speedy trial with a view to protect individual liberty. At the same time, the legislature has tried to strike a balance by allowing the Magistrate to refuse bail by assigning reasons in a given set of circumstances. Meaning thereby, that where in the opinion of the Magistrate, it is not proper or desirable or in the interest of justice to release such accused on bail, he may refuse bail by assigning reasons. The provisions of Section 437(6), as such, cannot be considered to be mandatory in nature and cannot be interpreted to grant an absolute and indefeasible right of bail in favour of accused."

10. As stated above, the learned Chief Judicial Magistrate in its order dated 07.01.2025 has sufficiently explained the reasons for declining relief claimed by the petitioner under Section 480(6) of BNSS.

11. The allegations levelled against the petitioner are serious in nature and keeping in view the seriousness of the offence alleged to have been committed by the petitioner, this Court does not find it a fit case for

granting him bail either under Section 480(6) of BNSS for regular bail as prayed for by him in petition bearing CRM-M-5655 of 2025 or regular bail during pendency of the trial as prayed for by him in the petition bearing 27673-2024. Resultantly, both the petitions are hereby dismissed. Nothing said herein shall be treated as an expression of opinion on the merits of the case.

12. Photocopy of this order be placed on the file of connected case.

(RAJESH BHARDWAJ)
JUDGE

26.03.2025
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Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No