

2025:PHHC:094024



**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

CRM M-28890-2025

Date of Decision:23.07.2025

Pawan Kumar

...Petitioner

Versus

State of Haryana

... Respondent

CORAM : HON'BLE MR. JUSTICE N.S.SHEKHAWAT

Present : Mr. Mukesh Yadav, Advocate for the petitioner.

Mr. Rajiv Sidhu, Sr. DAG, Haryana.

N.S.SHEKHAWAT, J.

1. The petitioner has filed the instant petition under Section 483 of the B.N.S.S., 2023 with a prayer to grant regular bail in case FIR No.98 dated 10.04.2024 registered under Sections 420, 409, 467, 468, 471 and 120-B IPC at Police Station City, Nuh.

2. The FIR in the present case has been registered on the basis of the statement made by Vimal Kumar son of Padam Chand and the same has been reproduced below:-

“To The SHO, City Police Station Nuh, Subject Regarding application, to take legal action against the Post Master and Pawan Kalra, regarding withdrawing fraudulently from my account No. 4302222610, Rs. 3,76,530 (Three lakh seventy thousand five hundred rupees), from account No. 4322789583, Rs. 72505 (Seventy two thousand five hundred rupees) and from

account No. 020071910004, Rs. 300000 and from account No. 020074592232, Rs. 350000, total Rs. 10,99,035/ without my signature and embezzling the said money. Sir, I request that I, Vimal Kumar son of Shri Pandam Chand, resident of Jhag Mohalla Ward No. 09, am a permanent resident of that place. I opened two deposit accounts in Post Office Nuh on 10.02.2019 and 28.02.2019 for 6 thousand rupees and 1 thousand rupees to be deposited every month and till 01.01.2024, I have deposited 6 thousand rupees and 1 thousand rupees continuously every month in both the deposit accounts through Pawan Kalra Post Office Agent and the period of deposit was till February 2024, after which I was to get all the said money along with interest, but during this period from 25.12.2023, due to my father's illness, I have been going to Delhi and Gurgaon for his treatment. On 03.10.2023 from account No. 020071910004, Rs. 300000/- rupees and on 26.10.2023 from account No. 020074592232, Rs. 3,50,000 and on 26.12.2023, Rs.3,76,530/- (three lakh seventy six thousand five hundred thirty rupees) from my deposit account No. 4302222610 and on 28.02.2024, Rs. 72,505/- (seventy two thousand five hundred rupees) from account No. 4322789583, totaling Rs. 10,99,035/- (ten lakh ninety nine thousand rupees) have been fraudulently withdrawn without my signatures. However, on 28.02.2024 I was at Gurgaon for treatment of my father and when I brought him home at night, my father had passed away at night. When I went to withdraw money from the said deposit account on 26.03.2024, I came to know that the Post Master of Nuh Post Office and agent Pawan Kalra, both in connivance with each other,

committed embezzlement and fraud in my accounts in the said post office and fraudulently withdrew Rs. 3,00,000/- from my deposit account No. 020071910004, Rs.3,50,000/- from account No. 020074592232, Rs. 3,76,530/- (three lakh seventy six thousand five hundred thirty rupees) from account No. 4302222610 and Rs.72,505?/- (seventy two thousand five hundred rupees) from account No. 4322789583, totaling Rs. 10,99,035 (ten lakh ninety nine thousand thirty five rupees). The original copy of the FD is deposited in Economic Cell in FIR No. is 84. Therefore I request you to take legal action by registering a case for withdrawing a total amount of Rs.10,99,035 rupees from my deposit account without my permission. Thank You Applicant Vimal Kumar son of Padam Chand resident of Jhag Mohalla Ward No. 9 Nuh Mobile No. 9050301510.”

3. Learned counsel for the petitioner contends that the petitioner has been falsely involved in the present case and the petitioner has no a concern or authorization to access any account of the depositor. Learned counsel further submits that the alleged recoveries are planted one and the petitioner has nothing to do with same. He further contends that the petitioner was wrongly arrested in the present case on 25.04.2024 and after completion of investigation, the final report under Section 173 Cr.P.C. has already been presented before the competent Court. Learned counsel further submits that 5 more FIRs were also ordered to be registered against the petitioner on similar allegations, however, the petitioner has filed a petition bearing

Number CRM-M-33323-2024 before this Court for clubbing of the FIRs against him. Even the prosecution has been able to examine only 01 witness, out of total 34 witnesses so far and the conclusion of the trial may take quite a long time.

4. On the other hand, learned State counsel has vehemently opposed the submissions made by learned counsel for the petitioner on the ground that 05 more FIRs have been ordered to be registered against the petitioner and being a habitual offender, he is not entitled to be released on bail by this Court. Even, he has cheated several innocent investors to the tune of lacs of rupees in the present case.

5. I have heard the learned counsel for the parties and perused the record.

6. It has been held by the Hon'ble Supreme Court of India in the matter of Sanjay Chandra Vs. CBI, 2011(4) R.C.R. (Criminal) 898 and 2011 AIR (SCW) 6838 as follows:-

“14. In bail applications, generally, it has been laid down from the earliest times that the object of bai is to secure the appearance of the accused person at his trial by reasonable amount of bail. The object of bail is neither punitive nor preventative. Deprivation of liberty must be considered a punishment, unless it can be required to ensure that an accused person will stand his trial when called upon. The courts owe more than verbal respect to the principle that punishment begins after conviction, and that every man is deemed to be innocent until duly tried and duly found guilty. From the earliest times, it was appreciated that detention in custody

pending completion of trial could be a cause of great hardship. From time to time, necessity demands that some un-convicted persons should be held in custody pending trial to secure their attendance at the trial but in such cases, 'necessity' is the operative test. In this country, it would be quite contrary to the concept of personal liberty enshrined in the Constitution that any person should be punished in respect of any matter, upon which, he has not been convicted or that in any circumstances, he should be deprived of his liberty upon only the belief that he will tamper with the witnesses if left at liberty, save in the most extraordinary circumstances. Apart from the question of prevention being the object of a refusal of bail, one must not lose sight of the fact that any imprisonment before conviction has a substantial punitive content and it would be improper for any Court to refuse bail as a mark of disapproval of former conduct whether the accused has been convicted for it or not or to refuse bail to an un-convicted person for the purpose of giving him a taste of imprisonment as a lesson.

15. In the instant case, as we have already noticed that the "pointing finger of accusation" against the appellants is 'the seriousness of the charge'. The offences alleged are economic offences which has resulted in loss to the State exchequer. Though, they contend that there is possibility of the appellants tampering witnesses, they have not placed any material in support of the allegation. In our view, seriousness of the charge is, no doubt, one of the relevant considerations while considering bail applications but that is not the only test or the factor : The other factor that also requires to be

taken note of is the punishment that could be imposed after trial and conviction, both under the Indian Penal Code and Prevention of Corruption Act. Otherwise, if the former is the only test, we would not be balancing the Constitutional Rights but rather "recalibration of the scales of justice." The provisions of Criminal Procedure Code confer discretionary jurisdiction on Criminal Courts to grant bail to accused pending trial or in appeal against convictions, since the jurisdiction is discretionary, it has to be exercised with great care and caution by balancing valuable right of liberty of an individual and the interest of the society in general. In our view, the reasoning adopted by the learned District Judge, which is affirmed by the High Court, in our opinion, a denial of the whole basis of our system of law and normal rule of bail system. It transcends respect for the requirement that a man shall be considered innocent until he is found guilty. If such power is recognized, then it may lead to chaotic situation and would jeopardise the personal liberty of an individual. This Court, in **Kalyan Chandra Sarkar v. Rajesh Ranjan**, 2005(1) RCR (Criminal) 703 : 2005(1) Apex Criminal 307 : (2005)2 SCC 42, observed that "under the criminal laws of this country, a person accused of offences which are non-bailable, is liable to be detained in custody during the pendency of trial unless he is enlarged on bail in accordance with law. Such detention cannot be questioned as being violative of Article 21 of the Constitution, since the same is authorised by law. But even persons accused of non-bailable offences are entitled to bail if the Court concerned comes to the conclusion that the prosecution has failed to establish a

prima facie case against him and/or if the Court is satisfied by reasons to be recorded that in spite of the existence of prima facie case, there is need to release such accused on bail, where fact situations require it to do so."

7. In the present case, even though serious allegations have been levelled against the petitioner, however, the petitioner is in custody for the last more than 01 year and 03 months. The prosecution has been able to examine only 01 witness, out of total 34 witnesses, so far. Even otherwise, the trial is at the initial stage and the conclusion of the trial may take quite a long time.

8. Without commenting on the merits of the case, the present petition is allowed and the petitioner is ordered to be released on bail subject to his furnishing bail bonds/surety bonds to the satisfaction of the trial Court/Duty Magistrate/Chief Judicial Magistrate, concerned, subject to the following conditions:-

(i) The petitioner 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 to disclose such facts to the Court or to any other authority.

(ii) The petitioner shall remain present before the Court on the dates fixed for hearing of the case.

(iii) The petitioner shall not absent himself from the Court proceedings except on the prior permission of the Court concerned.

(iv) The petitioner shall surrender his passport, if any, (if already not surrendered), and in case he is not holder of the same, he shall swear an affidavit to that effect.

(v) *The petitioner shall also file his affidavit before the concerned Court, mentioning his ordinary place of residence and number of mobile phone, which shall be used by him during the pendency of the trial. In case of change of place of residence/mobile number, he shall share the details with the concerned Court/learned Trial Court.*

(vi) *In case, the petitioner gets involved in any other criminal activity, during the pendency of the trial, it shall be viewed seriously and the prosecution shall be at liberty to move an appropriate application for cancellation of bail granted to the present petitioner.*

(vii) *The concerned Court may insist two heavy local surties and may also impose any other condition, in accordance with law, while accepting the bails bonds and surety bonds of the petitioner.*

(viii) *The petitioner shall report every 1st and 3rd Monday in English calander month before the concerned SHO till the conclusion of the trial and SHO shall mark his presence by making an entry in the Rojnamcha. In case, he does not report on every 1st and 3rd Monday before the concerned SHO, it shall be viewed seriously and the concession granted to him shall be liable to be cancelled and the State of Haryana shall be at liberty to move an appropriate application in this regard.*

23.07.2025
amit rana

(N.S.SHEKHAWAT)
JUDGE

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