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

CRM M-28884-2025
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.99 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 Jitendra Kumar Baghel son of Shri Shyamlal Baghel and the same has been reproduced below:-

> *"To, Respected Superintendent of Police, District Nuh Subject Regarding application for embezzlement of money, fraud, cheating, preparing fake post office documents and misusing them, breach of trust against the accused 1. Pawan Kalra son of Hukam Chand Kalra resident of Ward No. 13. Near old Gurudwara Nuh 2. Sunil Kumar son of Prakash Chand son of Raghuvir*

resident of ward No. 8 near Bhuteshwar temple Nuh 3. Postmaster Nuh and other post office employees Nuh Shriman Jau. 1. It is requested that we the applicants are residents of Nuh city and all of us earn our living by working honestly. Accused No1. Pawan Kalra works as old agent in post office Nuh, who is a registered post office agent. 1. The accused is an agent. 2. It is that the accused No. 1 Pawan Kalra's father Master Hukam Chand was also a post office agent and being a permanent resident, all the people of the city had full faith in the accused, due to which we had deposited money in Monthly Saving Scheme, RD, TD and FD in the post office through Pawan Kalra and had opened accounts in which we had deposited a lot of money. 3. It is that Pawan Kalra and his partner Sunil used to come to take the R&D money at the end of the month and used to make excuses in the name of giving slip/receipt and said that they would pay the next month but till date they have not given us any receipt. 4. It is that I, the applicant No. 1, had made an FD in the name of my mother Kanta Rani, who is a 70-year-old elderly woman, in 2019, whose maturity amount was due in January in 2023, it had become 6 lakh rupees, the applicant renewed that 6 lakh rupees FD on the advice of the accused Pawan Kalra, a receipt of which was sent by the accused on WhatsApp through his mobile, in which the account number was - 020060095138 and the amount was 6 lakh rupees, a copy of which is attached. But now on going to the post office and enquiring from the postmaster about the FD of 6 lakh rupees, it was found that the accused had withdrawn 6 lakh rupees of the applicant's FD in November 2022 itself by forging the signature of Kanta

Rani and the receipt sent to us on WhatsApp was forged by his handwriting. Apart from that, money has been deposited only till October 2023 in 6 RDs which are in the name of different members of the family, whereas the accused had taken money for 5 months till March 2024 but did not deposit it in the account. Whose details are as follows. Account holder's name Deepak Singla Bank account number 020039178805 Amount 1500/ rupees per month, Diya Singla Bank account number-020050526003 Second account number- 020002735223 Amount 2000 rupees per month and 1000 rupees per month, Bhumika Bank account number-020002733979 Rs 2000 per month, Hitakshi Account No. 020002735308 amount Rs 1000 per month, Kanta Rani account No. 020002735084 amount Rs 1000 per month. Copy of all the above RD is attached with the application in which the accused have embezzled the amount of 5 months from the amount of Rs 8500/- per month. 5. It is that applicant No. 2 Chetan Prakash had got a TD done in the name of his father which matured in October 2021, the amount of which was 2 lakh 50 thousand rupees. From this amount the accused withdrew money without our consent and by forging our signatures and when we went to the post office we found out that the accused had committed fraud with us and embezzled the money. When we spoke to the accused Pawan Kalra in this regard the accused Pawan Kalra told us that I withdrew your money fraudulently and from that money bonds of 15 thousand rupees and 1 bond of 5 thousand rupees which amounts to 1 lakh 10 thousand rupees, I invested that money in our India Credit Cooperative Society Ltd. and gave us photocopies of it. While apart *from these fake bonds 1 lakh 40 thousand rupees were also invested. He invested and we have copied its amount. Apart from all this, Rs. 1 lakh 40 thousand are still outstanding against Pawan Kalra which have not been deposited till date. 6. It is that accused No. 1 Pawan Kalra and his accomplice accused No. 2 Sunil have got fake FD, TD and RD copies printed at their own level in connivance with the post office employees and have given them to us the applicants and other people in the same manner. The post office employees are also involved in the conspiracy of embezzlement of all this money, misappropriation and preparation of fake documents. Sir, in all this corruption, we the applicants have lost lakhs of rupees. There has been a loss, therefore you are requested to take strict legal action by filing a case against accused No1. Pawan Kalra son of Hukam Chand Kalra, accused No. 2 Sunil Kumar son of Prakash and post office employees for embezzlement of money, cheating, preparing fake documents and misusing them and breach of trust. Date- Applicant-1. Deepika Singla son of Madan Mohan Singla resident of Ward No. 10 Nuh Mobile No. 7988341755 2. Chetan Prakash son of Gorvadhan resident of Ward No. 9 Nuh Mobile No. 7404242666. On the allegations, An FIR No. 101 dated 12.04.2024 under sections 406,420,467,468,471,120B IPC was registered at Police Station City Nuh."*

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 10.04.2024 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 21 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 02 months. The prosecution has been able to examine only 01 witness, out of total 21 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 **(N.S.SHEKHAWAT)**
amit rana **JUDGE**

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