IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

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CRM-M-33471-2024
Date of decision: 07.05.2025

Neeraj Ohri ...Petitioner

Versus

State of Punjab and another …Respondents

CORAM: HON'BLE MR. JUSTICE ANOOP CHITKARA

Present: Mr. Amandeep Singh, Legal Aid Counsel for the petitioner.

Mr. Akshay Kumar, A.A.G, Punjab.

Ms. Anmol Thakur, Advocate for Mr. Sandeep Arora, Advocate for the complainant.

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ANOOP CHITKARA, J.

FIR No.	Dated	Police Station	Sections
49	15.06.2024	Chabbewal, District Hoshiarpur (Punjab)	406, 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 10 of the bail petition, the accused declares that he has no criminal antecedents.

3. The facts and allegations are being taken from the translated copy of FIR annexed with the bail petition as Annexure P-1, which reads as follows:

> *"Complaint no. 2446- PD Dated 17.04.2024. to Sir, SSP, Hoshiarpur, Subject: Complaint against Neeraj Ohri Chartered Accountant, Resident of House No.220, Saffron City, Backside Aman Hospital, Hoshiarpur for registration of case. Sir, I request that I am Sukh Chandan Kaur wife of Mohinder Pal Sindh is the proprietor of lawrence educational society and society is running a school at Lawrence Public School, Chabewal. 1) That Lawrence Educational Society is a registered society, and a notice dated 23.02.2022 was issued to this school by the Income Tax Department (Tax Department) and a copy of this notice received by the said society is attached. 2) That the Income Tax Department (Tax Department) in this notice stated that some amount from the financial year 2017-18 to 2019-20*

was due towards this society. 3) That the applicant contacted the C.A (Chartered Accountant) under the visa, that they want to pay the due amount mentioned in the notice. 4) That the said CA immediately told the applicant that he was in a position to deal with such cases and he also said that he would pay the due amount to the Income Tax Department and asked you not to contact with another CA. 5) That the said CA took me in his words and gave assurance to pay the income tax of the said society and obtained from my side the amount as follows:- 1) Cheque of Rs.47688/- dated 29.08.2023 2) Check 80,500/- 14-08-2023, 3) 93500/-, 04-08-2023 4) 15-07-2023 Rs. 7000/- Google Pay 5) Dated 18-07-2023 Rs. 10,000 /- Above 6) Dated 30-09-2023 Rs. 10,000/- Google Pay said on 08-07-2023 again 10,000/- obtained through Google Pay, thus the accused obtained a total of Rs. 3,68,688/- In addition to this, the said accused obtained the remaining amount of income tax and Rs.30,000/- and from time to time made fake counter foils/receipts to the petitioner as follows, which were about the payment of income tax receipts and told the applicant that this amount has been deposited by him. Which is as follows and attached with photocopies: a) Amount Rs.16922/- dated 10-08-2023 for year 2018-19 b) Rs. 1 lac 33 thousand 460/- dated 10-08-2023 for year 2017-18 c) Amount Rs.80 thousand 580/- dated 18-08-2023 for the year 2019-20 d) Amount Rs.22 thousand 118/- dated 10-06-2023 for the year 2019-20 e) Amount Rs.67668/- for the year 2018-19. 6) That these forged counter foils/receipts prepared by the accused were fabricated and forged by the accused and given to the petitioner saying that he has deposited the due amount of income tax in the bank. 7) That when the applicant contacted the tax department, the tax department checked his records and told that the due amount of the said income tax has not been deposited yet. 8) That the said accused first induced the petitioner to say that he is capable and has the expertise to deposit the due amount of school income tax and then the said amount pay to the petitioner through various channels and Google. He Obtained the cash through money with the intention of cheating that he will usurp this amount himself. 9) That fake receipts of the said counterfoil were prepared by the said accused himself or with the connivance of the bank officials and handed over to the petitioner knowing that these receipts were false and fabricated and Obtained the said amount himself and usurped the said amount himself. That the petitioner has committed serious crimes by obtaining the said amount fraudulently and embezzling it himself and by preparing forged documents and using the prepared forged documents properly, therefore FIR be registered, I will be very thankful to you. Thank you."

4. Legal aid counsel appearing for the petitioner submits that he was unable to contact the petitioner. However, he submits that the total alleged amount was Rs.3,68,688/- and petitioner had voluntarily handed over Rs.2 lakh to the complainant in the Court. He further submits that the investigator has all the powers to recover the proceeds of crime to which the petitioner must cooperate and he would have no objection if this Court grants him bail. He further submits that he cannot give any concession because of being a legal aid counsel and as such, he is making his statement by following the law.

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

6. Counsel for the complainant opposes bail on the ground that the recovery is pending.

7. The State's counsel opposes bail and refers to the status report.

8. It would be appropriate to refer to the following portions of the status report, which read as follows:

> *"**ROLE OF PETITIONER***
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> *6. That it is submitted that the petitioner being a Chartered Accountant received Rs.3,68,688/- from complainant/ his client Sukhchandan Kaur for depositing the same with Income Tax Department pertaining to a notice dated 23.02.2022 issued by the said department to the complainant. He gave five receipts to the complainant stating that the amount has been deposited with the Income Tax Department. But on verification from the Department, the complainant learnt that no amount has been deposited and receipts are forged and fabricated. Copies of receipts/counter foils given by the petitioner to the complainant are there on record. Allegations against the petitioner are grave and serious in nature. He has cheated the complainant in a calculated and planned manner.*
>
> ***EVIDENCE AGAINST THE PETITIONER***
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> *7. That it is submitted that the complainant Sukhchandan Kaur submitted an application No.2446-PD dated 17.04.2024 to SSP, Hoshiarpur against the petitioner regarding committing fraud on the pretext of depositing annual tax of Lawrence Education Society. The complainant contacted petitioner Neeraj Ohri, Chartered Accountant, who stated that he is expert in dealing with such type of cases and will get the amount paid to the Income Tax Department. On assurance given by him, the complainant paid Rs.3,68,688/- through cheque and Google Pay and Rs.30,000/- in cash to him during the period from 29.08.2023 to 08.07.2023. He gave counter*

foils/receipts regarding deposit of this income tax to the complainant. These receipts are dated 10.06.2023 for Rs.22,118/-, dated 10.06.2023 for Rs.67,668/-, dated 10.08.2023 for Rs.16,922/-, dated 10.08.2023 for Rs.1,33,460/-, dated 18.08.2023 for Rs.80,580/-. The petitioner while giving these receipts stated that income tax amount has been paid with the Income Tax Department through the bank. When the complainant contacted the Income Tax Department, she was informed after checking the accounts that the amount has not been deposited as yet. In this manner, the petitioner cheated the complainant and after preparing forged and fabricated receipts regarding deposit of the tax amount handed over the same to her. The aforesaid application was inquired into by Incharge E.O. Wing, Hoshiarpur and he found the allegations levelled in the application of the complainant to be correct against the petitioner. The petitioner was found to commit fraud of Rs.36,86,88/- on the pretext of getting exempted tax of Lawrence Public High School Chabbewal, District Hoshiarpur. The inquiry report was considered and approved by SSP, Hoshiarpur. Accordingly present FIR was registered against the petitioner."

REASONING:

9. Out of the alleged amount of Rs.3,68,688/-, Rs. 2 lakh has already been returned by the petitioner to the complainant, which make him entitle for bail. 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.

10. 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. 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.

11. 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.

12. 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)	

13. This order is subject to the petitioner's complying with the following terms.

14. *<u>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</u>*. 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.

15. 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.

16. 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.

17. The investigator to take steps to recover the proceeds of crime. In case, the investigator unable to recover the proceeds of crime, he is permitted to freeze all the bank accounts of the petitioner to the extent of unpaid amount. In case, the investigator does not proceed, it shall be permissible for the complainant to file representation to the concerned Senior Superintendent of Police and in case the petitioner does not cooperate, it shall also be permissible for the complainant to file an application before the trial Court for cancellation of bail and the trial Court shall be authorized and competent to cancel the bail granted by this Court.

18. Any observation made hereinabove is neither an expression of opinion on the case's merits nor shall the trial Court advert to these comments.

19. 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.

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

21. Concerned officer of the legal services authority to ensure the payment of fee of legal aid timely.

(ANOOP CHITKARA)
JUDGE

07.05.2025
Jyoti-II

Whether speaking/reasoned: Yes
Whether reportable: No.