IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-34607-2024
Reserved on: 05.03.2025
Pronounced on: 25.03.2025

Gulab Deen ...Petitioner

Versus

State of Haryana …Respondent

CORAM: HON'BLE MR. JUSTICE ANOOP CHITKARA

Present: Mr. Vikas Chatrath, Advocate
Mr. Abhishek Singh, Advocate
for the petitioner.

Mr. Aashish Bishnoi, DAG, Haryana.

Ms. Neha Gupta, Advocate
for the complainant.

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ANOOP CHITKARA, J.

FIR No.	Dated	Police Station	Sections
258	09.06.2023	Kurukshetra University, Kurukshetra, District Kurukshetra	406/420 IPC (Section 120-B IPC and 12 of Chit Funds Act 1982 added later on)

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 37 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 this case are that on 09.06.2023, a complaint dated 15.05.2023 was received from SP Office Kurukshetra to the SHO, PS Kurukshetra University Kurukshetra after a preliminary enquiry conducted by the DSP, Kurukshetra in which it was alleged by the complainant Baljit Singh son of Dhan Singh resident of Shanti Nagar, Kurukshetra that accused Gulab Deen petitioner village Nidana District Jind, Sunil Thakur resident of village Ding, District Sirsa, Pankaj resident of Hisar, Vijay Chadha resident of Niwarsi, PS Ladwa and Balkar, Satpal & Himanshu etc. have committed a fraud and cheated him in the name of providing benefit through Crypto Currency and MLM because the petitioner Gulab Deen who was known to him since twelve year and he was driving his vehicle occasionally, as per his*

requirement. Petitioner Gulab Deen introduced him with a person namely Sunil Thakur resident of Digh, District Sirsa and told that they are working of Le OCTA TOKEN in the company of main accused Vijay Chadha and getting more profits. Accordingly, they both induced him to invest money for profit but he denied doing so. After 4-5 days, they again came and told him to invest in their company i.e OCTA TOKEN and assured to return the same within three months along with benefit share of income. They also took guarantee of it. At that time, he had rupees 33 lakhs in his account and rupees 11 Lakhs in cash in hand for sending his son abroad but he got influenced with petitioner and co-accused Sunil Thakur. Hence, on their repeated guarantee he gave them Rupees 20,000/ on 11.01.2023, 25,000/ on 14.01.2023, 25,000/-on 14.01.2023, 22,000/-on 14.01.2023, 25,000/- on 15.01.2023, 25,000/ on 15.01.2023 (all through online/ UPI transactions) and Rupees 10 lakhs through cheque no. 55247 in favor of accused Vijay Kumar account no. 920020053159044 and another cheque no. 55250 amounting to Rupees 8,76,950/-on 19.01.2023 in favor of account of Vijay Kumar main accused, Rupees 10 lakhs through cheque no. 293291 in favor of accused Vijay on 25.01.2023. Therefore, Rupees 30,18,950/- were deposited in his account. Rupees 2,23,050/-in cash on 21.01.2023, Rs. 1,83,220/ on 26.01.2023, Rupees 8 lakhs in cash on 27.01.2023 etc. (total amount in cash Rs. 12,06,270/-). In response of the above said payment made by the complainant, Vijay accused returned a cheque no.00788 amounting to rupees 21 lakhs and another cheque no. 00790 amounting to rupees 10 lakhs on 21.01.2023 but both cheques were bounced. Further by putting more faith accused Vijay returned an amount of Rs.3,53,015/ on 24.01.2023 in his saving account no. 913010031536211, Rs.50,000/-on 25.01.2023, Rs. 1,69,000/ on 28.01.2023, Rs.50,000/- on 28.01.2023, Rs.50,000/- on 10.02.2023, Rs.50,000/- on 17.02.2023 in abovesaid account of complainant. Hence, total amount of Rupees 7,22,015/- were returned. After that they again took an amount of rupees 8 lakhs on 27.01.2023 for investment after coming wallet but no wallet came and the company has closed. The website of company is running but amount cannot be withdrawn from it. After it, they called him at Karnal in a hotel 5-6 time where accused Vijay Chadha, Satpal, Himansu and Balkar met him. After it, they denied to return the amount but accused/petitioner Gulab Deen and Sunil Thakur again assured him to return the amount and taken guarantee as well. When he pressurized accused Gulab Deen and Sunil Thakur for the amount, they introduced a person namely Pankaj with him on 24.03.2023 but in vain. On repeated request they ignored making him any payment and choose not to talk with him due to which he fell down ill and his uric acid and sugar increased. Hence, complainant requested to take strict action against the accused.

2. That on the said complaint a case FIR no. 258 dated 09.06.2023 under section 406,420,120-B IPC and 12 Chit Fund Act 1982 was registered/added in Police Station KUK, District Kurukshetra and the case was investigated by the local police. The details of bank accounts were obtained& taken in to police possession through recovery memo which was got signed by the witnesses. After it, section 12 Chit Fund Act 1982 was imposed. On 14.06.2024 main accused Vijay son of Subhash Chand resident of Ladwa District Kurukshetra was arrested as per the provision. During interrogation he made his disclosure statement and admitted the allegation leveled against him. He also agreed to get arrest accused Sunil Thakur, Gulab Deen and Javed Khan. As per disclosure statement of the accused Vijay, police took remand of *two days from the Court to get recover Rs. 1,00,000/- from Karnal as per his statement. But on the way to Karnal, near village Taraori he again recorded his disclosure statement which was signed by him and another witness. The accused Vijayclearly disclosed that he knows accused Gulab Deen petitioner and his mobile no. is 9416534520 and he is residing in village Nidana District Jind. On 15.06.2024 police tried to arrest another accused but could not succeed hence, he was sent to judicial custody. Other accused are yet to be arrested."*

4. 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 their family.

5. The State's as well as counsel for the complainant oppose bail and refers to the reply.

6. As per para no.6, one report under Section 173 CrPC has been filed and the trial is yet to commence. Even perusal of the affidavit filed by the complainant points out that the recipient of the money was Vijay who is the main and primary accused. Petitioner in the bail petition explicitly claims to be a victim being duped by Vijay Kumar. Petitioner's stand is proved by preponderance of probability in para no.9 of his bail petition wherein he admits receiving of Rs.50,000/- as commission from Vijay. In para no.17, it has been explicitly mentioned that the said amount of Rs.50,000/- has already been returned back and deposited in the account of the complainant. After analyzing the stand taken by the petitioner, reply of private respondent and reply of the State does create a doubt about complainant's stand that petitioner was in conspiracy with main accused Vijay. For the purpose of deciding bail application, this Court is not commenting on the sufficiency of evidence for the purpose of framing of charges but has analyzed the matter only to assess whether custodial interrogation is required or whether it is a case of pre-trial incarceration or not. There is no doubt that it is neither a case for custodial interrogation nor pre-trial incarceration.

7. 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.

8. The Police did not arrest the petitioner; if they intended to arrest the petitioner, it was not impossible.

9. 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. This order shall come into force from the time it is uploaded on this Court's official webpage.

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 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.

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)	
4.	E-Mail id (If available)	

12. This order is subject to the petitioner’s complying with the following terms.

13. *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*. 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.

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 shall 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.

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

(ANOOP CHITKARA)
JUDGE

25.03.2025
Jyoti Sharma

Whether speaking/reasoned: Yes
Whether reportable: No.