

Naipal Singh ...Petitioner

Versus

State of Haryana ...Respondent

CORAM: HON'BLE MR. JUSTICE ANOOP CHITKARA

Present: Mr. B.S. Tewatia, Advocate
for the petitioner.

Ms. Harpreet Kaur, A.A.G., Haryana.

Mr. Bhupinder Ghangas, Advocate
for the complainant.

ANOOP CHITKARA, J.

FIR No.	Dated	Police Station	Sections
190	26.03.2024	Mujessar, Faridabad	420, 406, 120-B 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 13 of the bail petition, the accused declares that he has no criminal antecedents.
3. The facts and allegations are being taken from the status report filed by the State, which reads as follows:

“2. That brief facts of the case are that a complaint No.876/CP/D dated 20.11.2023 was received in the Police Station Mujesar, Faridabad from the office of Deputy Commissioner of Police, NIT Faridabad wherein complainant Arun Kumar son of Rajender Singh Saini, resident of Village Jharsa, District Gurugram alleged that he had purchased a machine I.e. F9773D818462 CNC EDM SPRINTCUT AC from Naipal Singh (petitioner) who ran a company namely National Precision Tools, at Plot No.1, Thakur Complex Faridabad, Haryana for a sum of Rs.21,24,000/-. The said machine was purchased from Jai Mata Di Engineering (GST 06GKFPM1321DIZN). There was loan on this machine from Siemens company. At the time of taking the machine, he asked him to pay him the full payment for this machine so that he could repay the loan of this machine and handed over the same to him. He had deposited the

full price of the machine alongwith GST into their account, which they confirmed to him that the payment has been received. They asked him for time for NOC and talked to Siddharth and Jitender of Siemens company that NOC would take time. They kept on giving some excuse or the other for NOC. After some time, due to his work not being successful, he had sold the machine. The person to whom he went to sell the machine asked for papers for the loan. When he applied for the loan, he came to know that the loan for this machine was not repaid till then. On enquiry, he found that Naipal Singh had cancelled the loan of his second machine from Siemens company and the loan on the machine for which he took money from him was still going on. Naipal Singh, Jitender and Siddharth hatched a conspiracy and cheated him. When he talked about it to Naipal Singh and asked for his money, then he abused him and threatened him to kill. Legal action was requested against the accused persons. On these allegations, present FIR No. 190 dated 26.03.2024, under Sections 420, 406, 120B IPC, was registered at Police Station Mujesar, Faridabad.”

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. Status Report by way of affidavit filed by State counsel is taken on record. A copy thereof has been supplied to counsel for the petitioner.

6. The State's as well as counsel for the complainant oppose bail and refers to the status report.

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

“9. That the role of the petitioner/accused is that, he had received a sum of Rs. 21,24,000/- from the complainant for EDM SPRINTCUT AC machine on 19.12.2022 and said machine was already financed from Siemens Company but instead of depositing the said payment into the loan account of said machine, he cancelled the loan of his second machine from Siemens Company while the loan on the said machine i.e. EDM SPRINTCUT AC for which he took money from the complainant was still going on. When the complainant talked about it to Naipal Singh (petitioner) and asked for his money, then he abused and threatened the complainant to kill. In this manner, Naipal Singh (petitioner) hatched a conspiracy with co-accused Jitender and Sidharth and cheated the complainant. There are serious and specific allegations against the petitioner/accused. Hence, the petitioner/accused is not entitled for any relief as prayed for.”

REASONING:

8. Counsel for the complainant opposed the bail on the ground that the original copy

of letter dated 26.07.2024/21.08.2024 has not been supplied. However, counsel for the petitioner has handed over print out of letter dated 26.07.2024/26.08.2024 which contain digital signatures and are admissible under Information Technology Act, BSA and Indian Evidence Act.

9. 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 prima facie 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, subject to the compliance of terms and conditions mentioned in this order. 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.

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 Ilqa 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. 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.

15. 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.

16. 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.

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

18. 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.

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

(ANOOP CHITKARA)
JUDGE

21.04.2025
Jyoti Sharma

Whether speaking/reasoned: Yes
Whether reportable: No.