



CRM-M-37123-2025 (O&M)

1

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

293

**CRM-30404-2025 in/&
CRM-M-37123-2025 (O&M)**

Date of decision:18.08.2025

Harsh Kotak

...Petitioner

V/s

Central Bureau of Investigation

...Respondent

CORAM: HON'BLE MR. JUSTICE SUMEET GOEL

Present: Mr. R.S. Cheema, Senior Advocate with
Ms. Sumanjit Kaur, Advocate with
Mr. Satish Sharma, Advocate for the petitioner.

Mr. Ravi Kamal Gupta, Retainer counsel for the CBI.

Mr. S.P. Jain, Senior Advocate with
Ms. Meghna Malik, Advocate and
Mr. Gagandeep Jammu, Advocate for the complainant.

SUMEET GOEL, J. (Oral)**CRM-30404-2025**

This is an application under Section 528 of BNSS, 2023 seeking amendment by way of addition of offences under Section 7-A of Prevention of Corruption Act and Section 308(2) of BNS, 2023 in the headnote and prayer clause of the instant petition as it has come forth that the final report has been presented in respect of aforesaid offences as well.

Application is allowed as prayed for, subject to all just exceptions. Registry to carry out the necessary correction in the head-note and prayer clause of the instant petition.

CRM-M-37123-2025

1. Present petition has been filed under Section 483 of BNSS, 2023 for grant of regular bail to the petitioner in case bearing FIR



No.RC0052025A0011 dated 31.05.2025, registered for the offences punishable under Section 61(2) of BNS, 2023 and Section 7 of Prevention of Corruption Act, 1988 as also Section 7-A of Prevention of Corruption Act, 1988 and Section 308(2) of BNS, 2023 (added later on) at Police Station CBI, ACB, Chandigarh.

2. The gravamen of the FIR in question is that the petitioner, in connivance with co-accused Amit Kumar Singal, a senior IRS officer, is involved in an FIR/regular case registered by the CBI under the Prevention of Corruption Act, 1988 and Section 61(2) of BNS, 2023 for demanding Rs.45.00 lacs for settling the matter of an income tax notice issued to the complainant. Consequently, the instant FIR was registered on 31.05.2025. After registration of the FIR, a trap was laid by the CBI team on the same day i.e. 31.05.2025 and during trap, the accused Harsh Kotak (petitioner herein) was allegedly apprehended from the residence of the co-accused Amit Kumar Singal while accepting bribe of Rs.25.00 lacs in cash on behalf of co-accused Amit Kumar Singal from the complainant and hence recovery of the bribe amount of Rs.25.00 lacs was effected. Since the co-accused Amit Kumar Singal had accepted bribe from the complainant through the accused Harsh Kotak (petitioner herein), consequently, both the accused i.e. Harsh Kotak and Amit Kumar Singal were arrested by the CBI on 31.05.2025 and 01.06.2025 respectively.

3. Learned counsel for the petitioner; led by Sh. R.S. Cheema, Senior Advocate; has argued that the petitioner is in custody since 31.05.2025. Learned senior counsel has further iterated that there were business dealings between the petitioner's side and the complainant's side,



pursuant to which a franchise agreement was entered between the petitioner - Harsh Kotak and mother of co-accused - Amit Kumar Singal on one hand, with FIR-complainant on the other hand. The same was terminated in December, 2024 and subsequently a cheque dated 09.01.2025 was handed-over by the FIR-complainant in lieu of the balance/outstanding payment for such settlement/termination. Learned senior counsel has further iterated that the said cheque was dishonoured in April, 2025 and thus a dispute arose between the parties. It has further been argued by the learned senior counsel that there was a meeting arranged for settlement of such dispute(s) on account of which the amount of Rs.25.00 lacs was required to be paid to the petitioner's side. Learned senior counsel has further argued that the petitioner has been falsely implicated into the FIR in question. Learned senior counsel asserts that the investigation is defective, insofar as it has not considered the aspect of the alleged bribe money being settlement money in respect of business dispute. Furthermore, the case of the prosecution primarily rests on documents and electronic evidence which already stand seized by the investigating agency and hence the continued incarceration of the petitioner is wholly unnecessary. In this view of the matter, learned senior counsel has prayed for grant of the regular bail.

4. Respondent-CBI has filed reply dated 12.08.2025 in connected petition i.e. CRM-M-42377-2025 opposing the grant of regular bail to the petitioner. Raising submissions in tandem with the said reply, learned counsel appearing for the CBI submits that the allegations levelled against the petitioner are of grave and serious nature, involving corruption at a high level and, therefore, the petitioner does not deserve the concession of the



regular bail. It is further contended that the petitioner, in active collusion with co-accused Amit Kumar Singal, a senior IRS officer, has orchestrated the demand and acceptance of illegal gratification. Furthermore, the investigation has brought on record cogent and convincing material, including corroborated audio recordings, digital evidence, as well as statements of prosecution witnesses, which *prima facie* establish the complicity of the petitioner. Taking into consideration the gravity of the offence, the nature of the evidence collected and the potential impact on the fair trial, the dismissal of the instant petition is entreated for.

Learned counsel for the CBI seeks to place on record custody certificate dated 11.08.2025 in Court, which is taken on record.

5. Learned counsel appearing for the complainant; led by Sh. S.P. Jain, Senior Advocate; has argued that the recovery of the bribe money from the possession of the petitioner conclusively establishes his complicity and the charge-sheet filed by the CBI clearly and unequivocally establishes the *prima facie* culpability of the petitioner in the commission of the offence. Learned counsel has further iterated that the allegations are grave and pertain to corrupt practices involving abuse of official position, which strikes at the foundation of public trust in the system. It has been further contended by the learned senior counsel that if the petitioner is extended the concession of regular bail at this stage, there exists an imminent likelihood of his tampering with the prosecution evidence and influencing material witnesses, which would not only hamper the ongoing proceedings but also frustrate the very object of a fair trial. Furthermore, it has been canvassed that while dealing with bail in cases involving economic offences/corruption, the



Courts are to be guided not merely by the length of custody but primarily by the gravity of the allegations, nature of evidence and the larger public interest. On the strength of these submissions, dismissal of the petition in hand is canvassed for.

6. I have heard counsel for the rival parties and have gone through the available records of the case.

7. At this juncture, it would be apposite to refer herein to a judgment of the Hon'ble Supreme Court titled as ***Gudikanti Narasimhulu and others vs. Public Prosecutor, High Court of Andhra Pradesh AIR 1978 SUPREME COURT 429***, relevant whereof reads as under:

“10. The significance and sweep of Article 21 make the deprivation of liberty a matter of grave concern and permissible only when the law authorising it is reasonable, even-handed and geared to the goals of community good and State necessity spelt out in Article 19. Indeed, the considerations I have set out as criteria are germane to the constitutional proposition I have deduced. Reasonableness postulates intelligent care and predicates that deprivation of freedom- by refusal of bail is not for punitive purpose but for the bi-focal interests of justice-to the individual involved and society affected.

11. We must weigh the contrary factors to answer the test of reasonableness, subject to the need for securing the presence, of the bail applicant. It makes sense to assume that a man on bail has a better chance to prepare or present his case than one remanded in custody. And if public justice is to be promoted, mechanical detention should be close to ours, the function of bail is limited, 'community roots' of the, applicant are stressed and, after the Vera Foundation's Manhattan Bail Project, monetary surety ship is losing ground. The considerable public expense in keeping in custody where no danger of disappearance or disturbance can arise, is not a negligible consideration. Equally important is the deplorable condition, verging on. the inhuman, of our sub-jails, that the unrewarding cruelty and expensive custody of avoidable incarceration makes refusal of bail unreasonable and a Policy favouring release justly sensible.



12. *A few other weighty factors deserve reference. All deprivation of liberty is validated by social defence and individual correction along an anti-criminal direction. Public justice is central to the whole scheme of bail law. Fleeing justice must be forbidden but punitive harshness should be minimised. Restorative devices to redeem the man, even, through community service, meditative drill, study classes or other resources should be innovated, and playing foul with public peace by tampering with evidence, intimidating witnesses or committing offence while on judicially sanctioned 'free enterprise,' should be provided against. No seeker of justice shall play confidence tricks on the court or community. Thus, conditions may be hung around bail orders, not to cripple but to protect. Such is the holistic jurisdiction and humanistic orientation invoked by the judicial discretion correlated to the values of our constitution."*

7.1. Further, the Hon'ble Supreme Court in a judgment titled as ***Gurcharan Singh vs. State (UT of Delhi) 1978 (1) SCC 118***, has held as under:-

*"Where the granting of bail lies within the discretion of the **court**, the granting or denial is regulated, to a large extent, by the facts and circumstances of each particular case. Since the object of the detention or imprisonment of the accused is to secure his appearance and submission to the jurisdiction and the judgment of the **court**, the primary inquiry is whether a recognizance or bond would effect that end."*

7.2. Furthermore, the Hon'ble Supreme Court in a judgment titled as ***Sanjay Chandra vs. CBI (2012) 1 SCC 40***, has held as under:

"21. In bail applications, generally, it has been laid down from the earliest times that the object of bail 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."

22. 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.”

8. The petitioner was arrested on 31.05.2025 whereinafter investigation in the case has been completed and charge-sheet/challan has been filed by the CBI on 30.07.2025. Total 19 prosecution witnesses have been cited and none has been examined till date. It is, thus, indubitable that the culmination of the trial will take its own time in view of the voluminous evidence and number of witnesses, and thus, keeping the petitioner in *gaol* for an indefinite period would not serve any substantial purpose once the investigation is complete. This Court does not deem it appropriate to delve deep into the rival contentions raised at the instance of the parties *lest* it may prejudice the trial. Nothing tangible has been brought forward to indicate the likelihood of the petitioner absconding from the process of justice or interfering with the prosecution evidence. Moreover, in the present case, the evidence also comprises documentary records, electronic data and recovery memos which are already in the custody of the investigating agency. As per custody certificate dated 11.08.2025 filed by learned CBI counsel, the petitioner has already suffered incarceration for a period of more than 02 months. Further, as per the said custody certificate the petitioner is not stated to be involved in any other FIR.



Suffice to say, further detention of the petitioner as an undertrial is not warranted in the factual *milieu* of the case in hand.

9. In view of above, the present petition is allowed. Petitioner is ordered to be released on regular bail on his furnishing bail/surety bonds to the satisfaction of the concerned Ld. Special Judge/Duty Magistrate. However, in addition to conditions that may be imposed by the concerned Ld. Special Judge/Duty Magistrate, the petitioner shall remain bound by the following conditions:-

- (i) The petitioner shall not mis-use the liberty granted.
- (ii) The petitioner shall not tamper with any evidence, oral or documentary, during the trial.
- (iii) The petitioner shall not absent himself on any date before the trial.
- (iv) The petitioner shall not commit any offence while on bail.
- (v) The petitioner shall deposit his passport, if any, with the trial Court.
- (vi) The petitioner shall give his cellphone number to the Investigating Officer and shall not change his cellphone number without prior permission of the Ld. Special Judge.
- (vii) The petitioner shall not in any manner try to delay the trial.

10. In case of breach of any of the aforesaid conditions and those which may be imposed by concerned learned Special Judge/Duty Magistrate as directed hereinabove or upon showing any other sufficient cause, the CBI/complainant shall be at liberty to move for cancellation of bail of the petitioner.

11. Ordered accordingly.



12. Nothing said hereinabove shall be construed as an expression of opinion on the merits of the case.
13. Since the main case has been decided, pending miscellaneous application, if any, shall also stands disposed off.

(SUMEET GOEL)
JUDGE

August 18, 2025
Ajay

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