

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-41199-2024
Reserved on: 13.01.2025
Pronounced on: 24.01.2025

Surender Kumar ...Petitioner

Versus

State of Haryana ...Respondent

CORAM: HON'BLE MR. JUSTICE ANOOP CHITKARA

Present: Mr. Shubham Kaushik, Advocate
for the petitioner.

Mr. Aashish Bishnoi, D.A.G., Haryana.

ANOOP CHITKARA, J.

FIR No.	Dated	Police Station	Sections
459	02.08.2024	City Hansi, District Hisar	467, 471, 218, 384, 511, 120-B IPC

1. The petitioner apprehending arrest in the FIR captioned above has come up before this Court under Section 482 of Bharatiya Nagarik Suraksha Sanhita, 2023, [BNSS], seeking anticipatory bail.
2. In paragraph 22 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:-

“2. That the brief facts of the case are that a written complaint bearing Sr. No. 1377-PU dated 13.07.2024 received in S. P. Office, Hansi from Treasury office, Hisar for taking 134 action against Virender Jangra Advocate and Surender Kumar (Present Petitioner-accused) regarding stealing government documents, preparing false evidence by conspiring and tampering with it, blackmailing with the intention of extorting money and committing an offence under Official Secrets Act. These are the facts of the case that complainant Satish Kumar Siwach is working as District Treasury officer, Hisar and Sub Treasury Hansi comes under the jurisdiction of the complainant. From letter No. 46 dated 09.07.2024, complainant came to know that the present petitioner and co- accused have stolen the record from the Sub Treasury office, Hansi without authorization and later prepared a

fake paper by making fake signature of Rajpati and some other tampering in the photocopy of the stolen record and prepared false testimony with the intention of getting Surender Singh son of Manphool Singh (retired Asst. Superintendent) and the complainant punished. It is further submitted that present petitioner and co-accused have stolen the documents from the government office by threatening to implicate the complainant. On 05.07.2024 at night from 8:38 PM to 8:44 PM, complainant received seven continuous calls from an unknown mobile number 918168211789 which he could not attend. Thereafter, five whatsapp messages came from the same mobile number between 10:14 PM to 10:16 PM, out of which he could read only the three messages from the notification window which are (1) Ke Hall Pardhan (How are You) (2) Ofer (Officer), (3) 10 Lakh Rupay do warna (Give me Rs. 10 Lakhs otherwise), then the last three messages were deleted. Thereafter, when the complainant messaged reply and asked what were the messages and why were deleted, no response was done. Complainant suspected that the mobile number belongs to the present petitioner, co-accused or someone related to them and they have done to extort Rs.10 Lacs from him by threatening. Even before this, present petitioner and co-accused have been sending unknown persons to extort money from the complainant illegally. Present petitioner- accused remained posted in Sub Treasury Office, Hansi during the period from 01.01.2014 to 31.12.2023 on contract basis and he was relieved from the services w.e.f. 31.12.2023 as per the government policy, Due to which he is having a grudge against the treasurer and other employees of the department. During his tenure, he has stolen these documents by misusing his position and violated the confidentiality of the office alongwith his brother co-accused Virender Jangra, Advocate, he conspired and prepared false and forged documents with the intention of blackmailing the complainant and used the forged documents to trap the complainant in a false case. A prayer was made for taking legal action against the accused Persons. On the basis of said complaint, FIR under sections 167, 471, 218, 384, 511, 120-B IPC was registered.”

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

5. The State's counsel opposes bail and refers to the reply.

6. It would be appropriate to refer to the following portions of the reply, which read as follows:

“5. During the course of investigation of the case, present petitioner played an important role for committing the offence and role of the present petitioner is described as under:

It has been found that present petitioner along-with co- accused

i.e. his real brother in conspiracy had been stolen the alleged documents from the office file and gave the alleged document to his brother i.e. co-accused Virender. After that ISIO Co-accused prepared false and forged documents with the intention of blackmailing the complainant and used the forged documents to trap the complainant in a false case and to extort money from him. It is specifically mention here that present petitioner and co-accused had not been produced any RTI document during their interrogation. It is further submitted that present petitioner specifically named in the FIR. It is further submitted that present petitioner and his brother did not produce any such type of document during their interrogation that they received the alleged document through RTI. Even the Department also mentioned in its report that they had stolen the Government official document/record and he i.e. present petitioner was terminated from his service. Copy of the charge report is annexed herewith as Annexure R-2.

It is specifically submitted that allegations levelled against the present petitioner-accused are serious in nature. It is further submitted that the present petitioner-accused is to be interrogated and recovery of stolen government documents is to be affected from him and mode of operandi. Therefore, custodial interrogation of the present petitioner-accused is necessary for proper and effective investigation. It is submitted that investigation of the case is pending yet.”

7. Counsel for the petitioner submits that it is a false and fabricated case. Petitioner was working on contractual basis as Computer Operator in the office of Sub-Treasury, Hansi from 2011 to 2023 but his contract was terminated despite the fact that he was very good. Feeling aggrieved, he had come up before this Court by filing writ petition and subsequently he filed representation and all this led to false implication. Counsel for the petitioner further submits that he has been falsely implicated by cooking a story and has clean antecedents.

8. Perusal of the petition makes it a case beyond preponderance of probability in favour of the petitioner. In addition to that, nature of allegations would not justify either custodial interrogation or pre-trial incarceration.

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. The Police did not arrest the petitioner; if they intended to arrest the petitioner, it was not impossible. A perusal of the reply does not point out the steps taken to arrest the accused.

11. 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.

12. 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 Ilaka 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.

13. 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)	

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

15. 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.

16. 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.

17. 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.

18. This bail is conditional, and the foundational condition is that if the petitioner indulges in any non-bailable offense, the State may file an application for cancellation of this bail before the Sessions Court, which shall be at liberty to cancel this bail.

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

20. 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.

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

(ANOOP CHITKARA)
JUDGE

24.01.2025
Jyoti Sharma

Whether speaking/reasoned: Yes
Whether reportable: No.