



No.40711981644999 on 11.03.2024, (iii) Rs.49,999/- vide UTR No.407393086695 dated 13.03.2024, (iv) Rs.25,000/- vide UTR No.407321269055 dated 11.03.2024 and (v) Rs.1,50,000/- vide cheque No.115249 dated 13.03.2024 of Punjab National Bank, Kaithal und (vi) Rs.50,000/- in cash to petitioner no.2/accused Meenakshi Garg. It was also alleged by the complainant that when the complainant applied for demarcation of the said plot then he came to know that the said plot did not belong to them which belongs to some other person. When the complainant and said Rakesh Walia went to the house of petitioners/accused, then they came to know that the petitioners/accused are habitual of doing cheating with the people. It was also alleged in the complaint that when the complainant demanded his money back from the petitioners/accused, then the petitioners/accused assured the complainant that they would return the money to the complainant but they did not do so and prolonged the matter on one pretext or the other. On the basis of above allegations, present FIR was registered and matter was duly investigated.”

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

5. The State’s counsel opposes bail and refers to the status report.

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

“5. That the petitioners are specifically named in the FIR. Petitioners/accused are involved in commission of serious offences as detailed above and their custodial interrogation is very much necessary for fair investigation as well as for recovery of the amount of Rs.3,50,000/.

6. That petitioners/accused are involved in commission of serious offences and their custodial interrogation is very much necessary for fair investigation. If this Hon’ble Court is pleased to grant the concession of anticipatory bail to the petitioner, then there is reasonable apprehension that the petitioners may abscond, temper with evidence and flee from justice by misusing the concession of anticipatory bail.”

REASONING:

7. Although, there is prima facie sufficient evidence against both the petitioners i.e. husband and wife but the allegations against petitioner No.2-Meenakshi are only to the extent of receipt of Rs.50,000/- and otherwise also, a husband is always in a dominating position and wife acts on his direction in most cases. Petitioner No. 1 has an active role



and this Court is fully aware of this situation. Thus, despite petitioner No.2-Meenakshi being a beneficiary, considering the fact that she is a woman and the amount which she received is just Rs.50,000/-, she is entitled to bail. However, bail of petitioner No.1-Pawan Gupta, who had played the major role, is not entitled to bail. As such bail petition of petitioner No. 1 stand dismissed. From here parting from the facts of bail petition of petitioner No. 1, this Court takes the facts of petitioner No. 2.

8. 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.

9. 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. Without commenting on the case's merits, in the facts and circumstances peculiar to this case, and for the reasons mentioned above, petitioner No.2 makes a case for bail.

10. The investigation indicates that petitioner No. 2 is not the main accused, so the petitioner bail shall not be treated as a precedent for granting bail to the other co-accused with a higher role.

11. Given above, provided petitioner No.2 is not required in any other case, she 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, petitioner No.2 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. Petitioner No.2 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. Petitioner No. 2 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, petitioner No.2 shall not be subjected to third-degree, indecent language, inhuman treatment, etc.

15. Petitioner No.2 shall abide by all statutory bond conditions and appear before the concerned Court(s) on all dates. She 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 qua petitioner No. 2, 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. This bail is conditional, and the foundational condition is that if petitioner No.2 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.

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 qua petitioner No.1-Pawan Gupta is dismissed and petition qua petitioner No.2-Meenakshi is allowed** in terms mentioned above. All pending applications, if any, stand disposed of.

(ANOOP CHITKARA)
JUDGE

18.03.2025

Jyoti-II

Whether speaking/reasoned:	Yes
Whether reportable:	No.