

220

CRM-M-44275-2024
Reserved on: 13.01.2025
Pronounced on: 30.01.2025

...Petitioner

State of Punjab

...Respondent

Present: Mr. Virender Soni, Advocate for the petitioner.

Mr. Sukhdev Singh, AAG Punjab.

Mr. K. S. Brar, Advocate
for the complainant.

FIR No.	Dated	Police Station	Sections
158	27.07.2024	City Kotakpura, District Faridkot	420 and 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. Per paragraph 10 of the bail application, the accused has the following criminal antecedents and Para 8 of the status report dated 22.09.2024.

Sr. No.	FIR No.	Date	Offenses	Police Station
1.	35	02.03.2014	498-A IPC	City Kotkapura

3. The facts and allegations are being taken from the reply filed by the State, which reads as follows:

“3. That the brief facts of the present case are that present Petiter Varinderpal Singh Bullar had presented himself to be the close ally of sitting speaker, Punjab Vidhan Sabha and deceived the complainant with the amount of Rs. 4,10,000/- with false promise to get him selected in Government Service.

(i) That the complainants namely Pawan Kumar s/o Faqir Chand r/o Faridkot and Rhitik s/o Raj Kumar r/o Dhara Singh Colony, Faridkot had approached the District Police with a joint complaint no. 678-PC-8/24 dated 19-04-2024 containing allegation that in the year 2021, the

complainant and his friend Rhitik had applied for the post of Ward Attendant at Guru Gobind Singh Medical College, Faridkot. However due to Assembly Elections and imposing of model code of conduct, the process to fill the jobs was not completed. The present petitioner Varinderpal Singh Bhullar and his son Abhaypal Singh Bhullar were known to Raj Kumar father of complainant Rhitik, when they came to know about the applications of complainants for Job in GGS Medical College, they presented himself to be close associate of MLA Kultar Singh Sandhwan's Public Relation Officer Manpreet Singh Mani and claimed that they could secure job to both the complainants and demanded Rs. 4 lakh for this work.

- (ii) *The complainants along with Raj Kumar came to the accused and both Varinderpal Singh Bhullar and his son Abhaypal Singh Bhullar gave full assurance for their selection as Ward attended at the Medical College and further claimed that they had already got selected a number of persons in Government Sector.*
- (iii) *That after making arrangement of demanded amount of Rs. 4 lakh, the complainant informed Raj Kumar father of complainant Rhitik and offered to pay half the amount i.e. Rs. 2 lakh. On 03-12-2022, Raj Kumar took the separate amounts for both applicants and went to the accused, but petitioner demanded the entire amount to be paid at once. Then Raj Kumar made a phone call to Rhitik and called for the remaining amount at the spot. Both the applicants came to the house of accused at Kotkapura, where complainant handed over remaining amount of Rs. 2 lakh to Raj Kumar who paid the total 4 lakh amount to the accused in their presence. Both the accused showed their full confidence to get them select as Ward attendant.*
- (iv) *On 05-12-2022, when Abhay Pal Singh was asked about the appointment letter, he demanded a further amount of Rs. 10,000/-which was also paid to him. But the accused had failed to get the applicants appointed in Medical College for next one year and adhered delaying tactics. When the accused had put the mobile number of Raj Kumar in block list, then on 27-02-2024 the complainants approached the Public relation Officer Manpreet Singh Mani and discussed about the payments of Rs. 4,10,000/- to him, he categorically stated that the complainants have been duped by the accused. Thereafter complainants approached the accused, who had flatly refused to return their money and played fraud with them."*

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. Petitioner's counsel seeks bail on the grounds that the allegations are false and concocted and he has no concern with the same it is due to political rivalries. The petitioner's counsel submits that there is nothing on record to prove that he has connection with the concerned speaker of Vidhan Sabha. Further the petitioner has also referred para Nos. 6, 7 and 8 of the bail petition which reads as follows:-

“6. That from the bare reading of the complaint as well as FIR, the story created by complainant creates doubt on itself, as if at all complainant was to be believed, examination took place on 14.11.2021, result was declared on 29.11.2021, yet they waited till 27.07.2024 to register the FIR. Further, the payment is said to have been made in August 2022 which is highly improbable. It is highly unacceptable that if the result was declared on 29.11.2021, why would they make payment in year 2022.

7. That from the facts and circumstances narrated above, it is amply clear that the FIR so registered by the complainant against petitioner is totally a bundle of lies. The FIR so registered by the complainant is only with intention to extract money from the petitioner because the son of the petitioner already gone to abroad much prior registration of the FIR even the person mentioned in the FIR namely Rajkumar also gone to abroad much prior to registration of FIR. Though that Rajkumar is the neighbor of the petitioner from the last about 25 years and admittedly there is disputes between my son and Rajkumar regarding some amount but the story put forward by the complainant totally false.

8. That from the above contentions it is clearly proves that prima facie no case is made out against the present petitioner as he has been falsely implicated in present FIR by complainant without any basis. The petitioner is victim of false implication in the alleged crime and even a single penny has not been given by the complainant to the petitioner. The petitioner has no concerned at all with the present FIR even no such episode ever happened. It is also important to mention here that the petitioner has been roped in the present FIR only to seek recovery of money allegedly given to his son or to the person namely Rajkumar.”

6. The State’s counsel opposes bail and refers to the reply.

7. The incident pertains to the year 2021 and the averments made in the bail petition paragraph No. 6 to 8 (supra) had make out a prima facie case of preponderance of probability. Thus, on this ground alone the petitioner is entitled for anticipatory bail.

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

“ROLE OF THE PETITIONER:

6. That the FIR has been registered against two accused. Both the accused are father and son. They with hands in glove with each other, trapped the complainant-victims with misrepresentation of having close tie with the Speaker, Punjab Vidhan Sabha and projected themselves to be enjoying a high level approach. They assured the victims for getting them appoint on the post of Ward Attendant at GGS Medical College and Hospital and made a demand for consideration of Rs. 4 lakh for this work. The amount

was received by present petitioner from Raj Kumar father of complainant Rohitik both the complainants Pawan Kumar and Rohitik were present at the time of payment made to the accused. The complainants-victims waited their selection for next one year. During this period, they used to meet the petitioner but he kept the matter linger on by some pretext and when they came to know about the deception of present petitioner and asked him to return their money, petitioner used for them filthy language and threatened not to visit him in future.

EVIDENCE AGAINST PETITIONER:

7. That to prove the culpability of petitioner and his accomplice, ample material came on record during preliminary inquiry. The payment was made to the present petitioner by Raj Kumar in the presence of both the complainants Pawan kumar and Rohitik. The evidence in the form of call recording was also produced by complainant whereby the victims were putting off by the petitioner. Complainant also produced the bank statement to prove the amount withdrawn from his bank account and paid to the accused in cash.”

9. 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.

10. 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.

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. 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 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.

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

30.01.2025
M.Sikka

Whether speaking/reasoned: Yes
Whether reportable: No.