IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-46910-2024
Reserved on: 01.04.2025
Pronounced on: 22.04.2025

Harjinderpal Singh ...Petitioner

Versus

State of Punjab …Respondent

CORAM: HON'BLE MR. JUSTICE ANOOP CHITKARA

Present: Mr. Vivek Sheoran, Legal Aid Counsel
for the petitioner.

Mr. Sukhdev Singh, A.A.G., Punjab.

Mr. Mahender Joshi, Advocate
for the complainant.

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ANOOP CHITKARA, J.

FIR No.	Dated	Police Station	Sections
59	18.03.2022	Tripuri, District Patiala	420, 406 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 the bail application, the petitioner is silent about criminal antecedents.

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

> *"3. That the brief facts of the present case/FIR No. 0059 (supra) are that a representation dated 09.08.2021 was moved by Amrik Singh (complainant) before Deputy Superintendent of Police, Sub-Division Samana, District Patiala, against Harjinderpal Singh (present petitioner) with the allegations that he had an account bearing no. 40297997335 at State Bank of India, ADB Branch, Samana, District Patiala and there were Rs. 10,34,657/- in his account. On 05.08.2021, when the complainant went to his bank to get entries in his passbook, he came to know that Rs. 10,00,000/- had been withdrawn from his bank account and he was not having any knowledge regarding the same. When the complainant enquired from the manager of the bank, he came into light that on 28.07.2021, an amount of Rs. 5,00,000/- had been transferred in one account of SBI Bank, Rajewas and Rs. 5,00,000/- in one account of Punjab National Bank and the said transfer was done by*

> *Harjinderpal Singh (petitioner) having mobile No. 98887-59881. Therefore, the complainant requested to take legal action against Harjinderpal Singh (petitioner).*
>
> *4. That the enquiry of the said representation was conducted by SHO, Police Station Sadar Samana, who after conducting thorough and detailed enquiry, found that one Mohinder Singh impersonated himself as Field Officer at ICICI Bank Samana and on the pretext of sanctioning loan to Amrik Singh (complainant), he attached his mobile no. 90410-90969 with the account no. 40297997335 of Amrik Singh (complainant) on 28.07.2021. Thereafter, Mohinder Singh through net banking, transferred a total sum of Rs. 10,00,000/- in the bank accounts of Harjinderpal Singh (petitioner) and then, he withdrew the said amount from the bank accounts of petitioner on 28/29/30-07-2021. In this way, Mohinder Singh duped the complainant to the tune of Rs. 10,00,000/- by transferring the same in the bank accounts of Harjinderpal Singh (petitioner). Moreover, Mohinder Singh also duped Harjinderpal Singh's brother-in-law Satpal Singh by obtaining Rs. 2,20,000/-cash from him.*
>
> *5. That subsequently, the enquiry of the said representation was entrusted to Uncharge, Cyber Crime Cell, Patiala, who after conducting thorough and detailed enquiry, also found that Mohinder Singh duped the complainant to the tune of Rs. 10,00,000/- by transferring the same in the bank accounts of Harjinderpal Singh (petitioner). Moreover, Mohinder Singh also duped Harjinderpal Singh's brother-in-law Satpal Singh by obtaining Rs. 2,20,000/-cash from him. Therefore, it was recommended to register case/FIR against Mohinder Singh for the offence under Section 406, 420 IPC."*

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. 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:

> "*ROLE OF PETITIONER: That the co-accused Mohinder Singh on the pretext of opening the account of complainant, completed the formalities and gave his mobile number in the account of complainant. When the complainant, in order to pay the amount of his CC Limit, got transferred money from his relatives then co-accused Mohinder Singh received a message on his mobile number regarding the deposit in the bank account of complainant. Thereafter, co-accused Mohinder Singh by using net banking service, further transferred the said amount of Rs. 10 Lakh to the accounts of petitioner. In this way, petitioner in connivance with co-accused Mohinder Singh withdrew an amount of Rs. 5,00,000/- two times, which was transferred in the account of petitioner from the account of complainant Amrik Singh by co-accused Mohinder Singh through net banking.*"

7. Counsel for the petitioner has referred to order dated 25.03.2025 which reads as follows:

> "*Legal Aid Counsel submits that it transpires that the complainant has received a sum of Rs.5,00,000/-He further submits that they had settled the dispute vide compromise deed dated 04.09.2024 (Annexure P-2).*
>
> *A reference has been drawn to order dated 19.09.2024 wherein compromise was recorded. Complainant's counsel had appeared but did not state contrary to the plea of petitioner.*
>
> *I have heard Legal Aid Counsel for sufficient time. Legal Aid Cousel submits that he had interacted with the petitioner who told him that he had already paid an amount of Rs.5,00,000/- in cash to the complainant and now complainant is fully satisfied.*
>
> *However, State counsel opposes the statement and has stated that the amount involved was Rs. 10,00,000/-.*
>
> *I have perused the bail petition in which the factum of payment of Rs.5,00,000/-in cash or receiving the same by the complainant is absent. Further, a query put to the Legal Aid Counsel regarding filing of any quashing petition, he submits that on checking of the webpage and other instructions, no such quashing petition based on compromise has been filed by petitioner so far.*
>
> *Legal Aid counsel submits that he would make an effort to ask the complainant to appear through counsel on the next date.*
>
> *List on 27.03.2025.*
>
> *Interim order to continue till the next date of hearing."*

8. State counsel opposed the bail and submits that in case this Court grants bail to the petitioner, then it should be confined only to the petitioner and other accused Mohinder Singh should not be permitted to seek bail on the grounds of parity because he was the main accused. An analysis of the arguments would lead to the following outcome. Perusal of the reply as mentioned above clearly points out that the main mischief was done by Mohinder Singh. Petitioner's conduct is revealed by his attempt of returning money as has been noted above. Thus, the petitioner neither enticed nor allured the victim to part with his money. Although he might be aware of the deeds of Mohinder Singh, but given the earlier efforts by the petitioner wherein he claims to have returned some money and also the fact that petitioner was not the person who had enticed the complainant, it is neither a case for custodial interrogation nor 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. Given the above, the penal provisions invoked coupled with the primafacie

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.

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 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, 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

22.04.2025
Jyoti Sharma

Whether speaking/reasoned: Yes
Whether reportable: No.