



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

CRM-M-44898-2025

Date of Decision: 19.09.2025

VIVEK GARG

....Petitioner

Versus.

STATE OF PUNJAB

....Respondent

CORAM: HON'BLE MS. JUSTICE AARADHNA SAWHNEY

Present: - Mr.P.S. Ahluwalia, Advocate, for the petitioner.

Mr.Gautam Thapar, Sr. DAG, Punjab.

Mr.M.K. Mittal, Advocate, for the complainant.

AARADHNA SAWHNEY, J.

Present petition for grant of bail under Section 483 BNSS, 2023, has been filed by the petitioner, an accused in FIR No.90 dated 20.12.2022, registered against him and others, for commission of offences punishable under Sections 406, 420, 506 and 120B of IPC, at Police Station City Handesra, District SAS Nagar, Mohali.

2. Status Report dated 11.09.2025 by way of affidavit of Bikramjit Singh Brar, PPS, Deputy Superintendent of Police, Sub Division Derabassi, District SAS Nagar (Mohali), has been filed on behalf of the respondent-State, which is taken on record.

3. Relevant facts as emerging from documents on record be noticed hereinbelow:-

Subhash Chand, s/o Sh. Maru Ram, resident of Village Rjapur, a farmer by profession, set the criminal law in motion, by filing a complaint

dated **01.09.2022**, pointing therein that he had got an amount of ₹15 lakh approved from Punjab National Bank (Branch Humayunpur) through Kissan credit. **Vivek Garg (petitioner herein)** had taken ₹8 lakh from him (complainant) in 2016, with the assurance that the money would be returned back after few days. He (complainant) relied on this assurance and later also lend ₹6 lakh to Vivek Garg. Thus in all ₹14 lakh were taken by the petitioner and others. Despite repeated requests, the money has not been returned back. Further, as per the complainant, as a 'Security' for repayment of loan amount, three cheques bearing No.030531, 030532 and 030536 of Oriental Bank were given. When he (complainant) had gone to deposit those cheques in the bank, he did not find the bank. Worried by the fact that all accused were dilly-dallying the matter on one pretext or the other, he started repeatedly requesting them to return the money. Instead of abiding by their words, complainant further alleges that threats were issued to him and his family. In this regard, complaint dated 23.03.2022, mentioning all the facts, was penned down by his wife Smt. Santosh Kumari and was handed over to the local police officials, who did not pay any heed. Complainant further alleges that on 27.06.2022, accused along with 3-4 other persons attacked him. Even though the police officials of PS Handesra were intimated, but no action was taken against miscreants. Primarily with this backdrop, complainant requested the senior police officers to initiate appropriate proceedings against the petitioner and others, who had cheated him, threatened to kill him and had damaged his property by attacking his house. Based on the said complaint, formal case vide FIR No. 90 dated 20.12.2022 under Sections 406, 420, 506 and 120B of IPC, was registered at Police Station City Handesra, District SAS Nagar, Mohali, against the Vivek Garg, his wife and son. Proceedings were set into motion.

Admittedly, the wife and son of the petitioner were granted the concession of anticipatory bail by this Court vide order 01.08.2025 passed in CRM-M-41554-2025 (Annexure P8).

Petitioner was arrested in July 2025. On culmination of investigation, challan was filed.

4. After the bail application of the petitioner was dismissed by learned Additional Sessions Judge, SAS Nagar, Mohali, vide order dated 08.08.2025, the present petition has been filed.

5. Learned counsel for the petitioner submits that petitioner has been falsely implicated. The dispute between the parties is purely 'civil' in nature. After complainant filed the complaint, on numerous occasions the matter was enquired into by the local police officials, who concluded that dispute is primarily 'civil' in nature and thus prepared Cancellation report, which though for the reasons best known to them, never came to be presented in the Court. In this context, learned counsel referred to the orders dated 09.09.2024 and 22.05.2025 passed by this Court in CRM-M-37813-2024 and CWP-33950-2040 (appended as annexures P6 & P7), respectively. Subsequently, the son of the complainant, who is a police official, by misusing his official position got the present FIR registered.

Continuing further, learned counsel submits that in the complaint filed in 2022, complainant alleged that in 2016, petitioner had taken loan of ₹8 lakh on the assurance that the said amount would soon be returned back. Thereafter, another sum of ₹6 lakh was taken by him (petitioner), though the exact date, month, year etc. when the aforesaid sum was allegedly taken has not been mentioned. Learned counsel also drew the attention of the Court to Annexures P3 & P4, the copies of the complaints filed by the present complainant and his son, respectively. In both these complaints filed under Section 138 NI Act, not even a single word was mentioned about the petitioner having already been advanced a sum of ₹14 lakh in the past. Despite, petitioner having allegedly not returned ₹14 lakh to the complainant, both he (complainant) and his son again

advanced a sum of ₹5 lakh to petitioner. This abnormal conduct on the part of the complainant and his son, as per learned counsel for the petitioner, raises a serious doubt upon the genuineness of the story put forth by them.

Learned counsel next submits that petitioner had initiated criminal proceedings against complainant and others by way of FIR No.0274 dated 16.09.2022 (appended as Annexure P2). Only thereafter, complainant took recourse to criminal law and lodged the complaint, resulting in the registration of the present FIR No.90 dated 20.12.2022.

Learned counsel sums up his submissions by urging that investigations in the present case are complete, for challan has already been presented, completion of trial is likely to take lot of time, the offences being all magisterial triable, lenient view be taken in favour of the petitioner, who is otherwise also not keeping good health, by extending him the concession of bail.

6. Detailed reply, opposing the bail application, has been filed by the complainant-respondent No.2, on the ground that petitioner, who is very well connected, had earlier influenced the investigation, as a consequence of which the Cancellation Report was prepared. But only after the matter was enquired into by the senior police officials, the true facts came to light and the present FIR was lodged.

Learned counsel submits that petitioner, who is habitual offender, has cheated several innocent persons in the past and various complaints under Section 138 NI Act are pending against him. He is in the habit of duping persons of their hard-earned money. In the present case as well, when the contents of the FIR are read carefully, the dishonest intention on the part of the petitioner to cheat complainant, is quite apparent. Thus, as

per learned counsel, it is not a simple case of breach of oral agreement. In view of the aforesaid submissions, it has been prayed that in case the petitioner is extended the concession of bail, there is every likelihood of him fleeing from the process of justice by not appearing in the Court and also influencing/overawing complainant and related witnesses, who have till date not been examined. Dismissal of the bail application was prayed for.

Similar pleas have been raised by learned State counsel.

7. I have heard learned counsel for the parties and with their able assistance, appraised the record available on record.

8. Contents of the complaint, lodged by the complainant, have already been highlighted in para No.3 in this order. In nut-shell, as per complainant, in 2016, ₹8 lakh had been lent to the petitioner, who had assured to return the said amount in near future. Thereafter, ₹6 lakh in cash were also given to him (petitioner), though the exact date, month, year etc. when the said amount was handed over to the petitioner, has not been specified in the complaint. Complainant further alleges that as a Security for repayment of the loan amount of ₹14 lakh, petitioner had issued three cheques of Oriental Bank bearing Nos. 030531, 030532 and 030536. These cheques admittedly could not be encashed.

It is not disputed that prior to August 2022, neither complaint had been filed by the complainant with regard to the alleged non-payment of the amount by the petitioner, nor complainant took recourse to civil law by filing a suit for recovery. As noted above, on various occasions, the investigating officers after enquiring into the allegations leveled in the complaint, prepared Cancellation Reports on the premise that the dispute is

purely 'civil' in nature. However, these Cancellation Reports were not submitted to the Illaqa Magistrate (reference Annexures P6 & P7)

It also appears strange to common sense that even though petitioner had not returned the prior amount, complainant and his son, still thought it proper to lend him (petitioner) ₹7,40,000/-.

Insofar as the present FIR is concerned, a careful perusal of the same leaves no doubt that the dispute between the parties is purely 'civil' in nature. In any case, challan has already been filed. The other two accused as noted above, have already been granted the concession of anticipatory bail by this Court. The offences are all magisterial triable. The conclusion of trial is expected to take lot of time. In this scenario, further incarceration of petitioner in custody would not serve any useful purpose. Simply because, petitioner has been convicted in a case under Section 138 NI Act, would not be a ground in itself to deny him the relief sought for. Reliance in this regard is placed upon judgment of Hon'ble Supreme Court in ***Maulana Mohd. Amir Rashadi Vs. State of U.P. and another, 2012(1) RCR (Criminal) 586***. Thus, without expressing any opinion on the merits of the case, lenient view is taken in favour of the petitioner, who is allowed the concession of bail, subject to his furnishing bail/surety bonds to the satisfaction of trial Court/Duty Magistrate/Chief Judicial Magistrate concerned. The petitioner shall also abide by the following conditions:-

- (i) The petitioner will not tamper with the evidence during the trial.
- (ii) The petitioner will not pressurize/ intimidate the prosecution witnesses.
- (iii) The petitioner will appear before the trial Court on each and every date fixed, unless is exempted by a specific order of Court.

- (iv) The petitioner shall not commit an offence similar to the offence of which, he is an accused, or for commission of which he is suspected of.
- (v) The petitioner shall not directly or indirectly coerce, induce, threaten or promise to any person acquainted with the facts of the case so as to dissuade him/her from disclosing such facts to the Court or to any police officer or tamper with the evidence in any manner.
- (vi) The petitioner shall not in any manner misuse his liberty.
- (vii) The petitioner shall furnish his address and mobile number to the Trial Court forthwith and shall not change the same till the conclusion of the trial and in case for any reason, the petitioner seeks to change any of the aforesaid, the same shall be done only with prior intimation to the learned Trial Court, stating the reason for the same.
- (viii) The petitioner shall not leave the country without prior permission of the trial Court.
- (ix) The trial Court/Duty Magistrate may impose any other condition, as deemed appropriate while releasing the petitioner.

It is made abundantly clear that in case there is any breach of the aforesaid conditions, the State shall be at liberty to seek cancellation of bail as granted to the petitioner by this order.

In view of the above, it is clarified that the observations made herein are limited for the purpose of present proceedings and would not be construed as an opinion on the merits of the case and the trial would proceed independently of the aforesaid observations.

(AARADHNA SAWHNEY)
JUDGE

19.09.2025

Vivek

Whether speaking/reasoned : Yes
Whether reportable : No