

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-48969-2024
Reserved on: 18.03.2025
Pronounced on: 26.03.2025

Gurmail Singh ...Petitioner

Versus

State of Punjab ...Respondent

CORAM: HON'BLE MR. JUSTICE ANOOP CHITKARA

Present: Mr. P.K.S. Phoolka, Advocate,
for the petitioner.

Mr. Gurpartap Singh Bhullar, AAG, Punjab.

ANOOP CHITKARA, J.

FIR No.	Dated	Police Station	Sections
150	29.08.2024	Canal Colony, Bathinda, Distt. Bathinda	420, 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 8 of the bail petition, the accused declares that he has no criminal antecedents.
3. The facts of the case are being taken from translated copy of FIR, annexed with the petition as Annexure P-1. A group of victims sent a written complaint to the SSP levelling allegations against Abhay Khanagwan, Proprietor, Hind Grocery Group, Surjit Singh, Kamal Preet Singh and Gurmail Singh (petitioner). They alleged that Abhay Khanagwan was the proprietor of Hind Grocery Group, the accused persons allured and enticed the victims to get themselves enrolled in Hind Grocery Group and obtain cards. For the enrollment purpose, they charged Rs.500/- each. They further stated that they will issue debit cards and under that pretext, they took their signatures on blank papers. Subsequently, they befooled them by telling that they can buy grocery upto Rs.5,000/- from their Grocery Group after showing that card within 25 days. Later on, they retained the card and recruited them on the job on a salary of Rs.15,000/- to Rs.30,000/- per head per month and opened their accounts in bank. Subsequently, they borrowed loan in their names without informing them and themselves took the articles which were taken from the money which was obtained in the victim's name. In nutshell, the allegations are that by using their identification documents, they obtained loans in their names and utilized

the proceed of the loan for purchasing things.

4. Counsel for the petitioner seeks bail on the ground that the petitioner is not the main accused and further even as per the complainant, the main accused was Abhay Khanagwan. 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 his 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:

“7. Role of the petitioner: The petitioner and co-accused conspired with each other and induced the complainant and public at large to deposit of Rs.500/- with them and they also issued 650 cards. The accused received the amount but they did not give any articles on the said cards. The accused also took loan in the name of Rajwinder Kaur wife of the complainant, fraudulently. The petitioner actively participated in the commission of crime.”

REASONING:

7. Considering the fact that the petitioner is a first offender, the amount involved and also the fact that there is unsatisfactory explanation that how the loan amount obtained in name of complainant was transferred in the accounts of the accused.

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, the petitioner makes a case for bail.

10. 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.

11. 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)	

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

13. 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.

14. 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.

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 may file an application for cancellation of this bail before the Sessions Court, which shall be at liberty to cancel this bail.

17. 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.

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

(ANOOP CHITKARA)
JUDGE

26.03.2025
Jyoti-II

Whether speaking/reasoned:	Yes
Whether reportable:	No.