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

**CRM-M-48167-2024
Reserved on: 10.03.2025
Pronounced on: 25.03.2025**

Sachin Challana ...Petitioner

Versus

State of Punjab …Respondent

CORAM: HON'BLE MR. JUSTICE ANOOP CHITKARA

Present: Mr. Manu Loona, Advocate,
for the petitioner.

Mr. Akshay Kumar, AAG, Punjab.

Mr. Rajesh Narang, Advocate and
Mr. Abhinav Narang, Advocate,
for the complainant.

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ANOOP CHITKARA, J.

FIR No.	Dated	Police Station	Section
151	15.09.2024	City Fazilka, Distt. Fazilka	318 BNS, 2023

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 18 of the bail petition, the accused declares that he has no criminal antecedents.

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

> *"3. That brief facts of the case are as under:*
> *a) That the complainant Gavish Moolri son of Surinder Kumar moved an application No.198-PGD-PC dated 15.04.2024 to S.S.P. Fazilka against the present petitioner with the allegations that the complainant was working as helper with accused/petitioner in his finance business and in the year 2023 at the inception of said work, accused obtained four blank signed cheques of wife of complainant and his mobile iphone 12 Pro Max as security in addition to getting details of account and UPID of complainant. Thereafter, accused started finance business through the complainant and accused at his own used to get transferred money from*

various persons in the account of complainant and complainant used to transfer the money in the account of persons as told by the accused. Complainant used to deposit and withdraw cash in his account at the asking of the accused. Due to there being number of transactions in the account of complainant, bank froze the account of complainant. It was further informed by the complainant that he got financed money to his acquaintance Naresh Kumar from the accused and in lieu of that accused also obtained cheques of said person as security. The complainant further alleged that after the freezing of his account, accused did not pay him anything and on demand being raised by him for return of four blank signed cheques of his wife and iphone alongwith two cheques of Naresh Kumar, the accused replied that he has given the said cheques as security to other financers from whom he had taken money on interest and refused to return the same rather, accused threatened the complainant to falsely involved him. Therefore, the complainant demanded legal action against the petitioner."

4. The petitioner's counsel submits that the allegations levelled does not stand and corroborate to the facts as petitioner never obtained any cheques or I-phone. As a matter of fact, the complainant was friend of the petitioner and petitioner helped him in his difficult time when he was in need of money, there are number of bank transactions among the parties which show give and take of money on friendly terms. Bank transactions were supplied to the investigating agency during enquiry and same is mentioned in the FIR as well. Bank entries would show complainant has to pay back huge amount to the petitioner and present FIR has been registered as a tool to arm twist the petitioner, as a counter blast to the genuine claim and request of the petitioner to return money. A civil dispute which is a case of "Rendition of accounts" where multiple transactions have been held between the parties apparent from the bank transactions has been given the colour of a criminal nature. Financial transactions interse the parties are because of their friendly relations and nothing more. He further submits that there is no written record on the file to show complainant was employee of petitioner or was even working with him. Complainant is in default of huge money as he has to pay back money to many friends in circle. The petitioner always appeared in the mediation centre and is ready to settle the dispute being civil in nature and no recovery can be affected from petitioner.

5. 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.

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

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

> *"5. That it is respectfully submitted that as per facts and circumstances of the case there are serious and specific allegations against the petitioner/accused that the petitioner with a deliberate conspiracy entangled the complainant and now intends to blackmail him. Custodial interrogation of the petitioner is very much necessary for the proper investigation of the present case. Blank signed cheques are yet to be recovered from the petitioner. therefore, the petitioner is not entitled to the concession of anticipatory bail. Hence, the present petition is liable to be dismissed."*

8. The complainant's counsel also opposes bail and submits that the complainant has got registered the present FIR against the petitioner on the allegation that the petitioner had offered the complainant to do help in his finance business for which the complainant would be paid salary. The complainant agreed to this offer because he was unemployed in those days. The petitioner used the bank account of the complainant and started depositing money received from his customers in the account whereas the complainant was disbursing this amount as per asking of the petitioner. In this regard, the petitioner had sent certain messages to the mobile phone of the complainant and its screenshots have been handed over to the police. Due to the excessive transactions, the account of the complainant was freezed by the bank so the complainant asked the petitioner that he would not continue with this employment anymore and demanded his 4 blank signed cheques and mobile phone make IPhone pertaining to the wife of complainant which was retained by the petitioner as a security of the amount deposited in the account of complainant. But, the petitioner refused to return these cheques rather by misusing the same, he has also got filed one complaint bearing no. NACT-603/2024 titled as "Rohit Challana Vs. Priya" which is pending before the court of ACJM, Fazilka for 05.05.2025 in which the complainant's wife has been summoned. He submits that the cheques are also likely to be misused by the petitioner and for the purpose of recovery of these cheques, the custodial interrogation would be necessary. He further submits that the application moved by the complainant to the SSP was inquired into by DSP(D), Fazilka who submitted his inquiry report by stating therein that the allegations levelled against the petitioner stood proved; the petitioner (Sachin) is doing the finance business illegally; the petitioner took 4 blank signed cheques and mobile phone make IPhone of complainant's wife.

REASONING:

9. There was long relationship between the complainant and petitioner, whether the petitioner cheated the complainant or not is a nature of evidence. 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.

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. 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.

16. 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.

17. 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.

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

(ANOOP CHITKARA)
JUDGE

25.03.2025
Jyoti-II

Whether speaking/reasoned: Yes
Whether reportable: No