

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-48902-2024
Reserved on: 03.02.2025
Pronounced on: 20.02.2025

Gursewak Singh ...Petitioner

Versus

State of Punjab ...Respondent

CORAM: HON'BLE MR. JUSTICE ANOOP CHITKARA

Present: Mr. Viren Sibal, Advocate
for the petitioner.

Mr. Jasjit Singh, D.A.G., Punjab.

ANOOP CHITKARA, J.

FIR No.	Dated	Police Station	Sections
77	02.06.2023	Sarabha Nagar, District Police Commissionerate Ludhiana	408, 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 17 of the bail petition, the accused declares that he has no criminal antecedents.
3. The facts and allegations are being taken from translated version of FIR, which reads as follows:

“At present, it is entered that a complaint bearing PGD No. 18367+COMPLAINT No.15759 dated 20.08.2022 moved by Amarjit Singh Bali (A.S. Bali) Proprietor of B.S. Steels, SCO No.46-6, Bhai Randhir Singh Nagar, Ludhiana against Amarjit Singh Bhatti, resident of Gali No.07, New BRS Nagar, Ludhiana, 2) Munish Kumar son of Rakesh Kumar, resident of Fatehgarh Newa, P.S. Kheri Naudh Singh, District Fatehgarh, 3) Goldy Walia alias Janak Singh son of Ranjit Singh, resident of Village Jasla, P.S. Mandi Gobindgarh, 4) fake firm P.K. Enterprises' owner Pradeep Kumar son of Mahinder Kumar, resident of Dadar Nagar, Lohara, 5) Firm Navpreet Enterprises' owner Navpreet Singh son of Baljinder Singh, resident of House No.141, Near Gurdwara Pola, Fatehgarh Sahib, 6) Vikram Singh son of Jaswinder Singh, owner of Firm V.K. Trading Company,

Shop No.01, Aggarwala Market, Backside Union Bank, Mandi Gobindgarh, Second Address Shop No.141, Near Gurdwara Pola, Fatehgarh Sahib, 7) Firm Aadi Shakti Jewelers, Shop No.B-45/66/1, Kharadia Bazar, Near Dalip Puriwala, Ludhiana, its proprietor Gursewak Singh son Surjit Singh, resident Babat Sukha Singh Colony, Dadkheri, Mandi Gobindgarh, Fatehgarh Sahib, 8) Firm Satkar Enterprises, Opposite GRD Nagar, Near Bharat Box Factory, Jajipur Road, Bhammian Kalan; its proprietor Joginder Singh alias Akash were received at police station for registration of FIR, contents of which are as under: "To the Hon'ble Commissioner of Police, Ludhiana. Subject: For initiating legal proceeding for committing 1 fraud by embezzling Rs. 1 crore 33 lakh by issuing fake bill in the name of GST. Sir, I, Amarjit Singh Bali am American citizen and my company B.S. Steel (GST No.03ANDPS0134K4Z6) is situated at Budhewal Road, Jandiali, Ludhiana, where I do import work of machinery and scrap. This company is registered in the year 2008. The office of my company is at SCO 46-G, Bhai Randhir Singh Nagar. In this company, there is Accountant Amarjit Singh Bhatti, resident of New BRS Nagar (94176-34367). I have known Amarjit Singh Bhatti for the last about 20 years. Amarjit Singh Bhatti has been working in my company as Accountant since 2008. A very good family relationship had developed with Amarjit Singh Bhatti and I had a lot of faith in him. I gave all the operational supervision of my company to Amarjit Singh Bhatti. All sales, purchases, payments and GST etc. work of the company are being carried out under the supervision of Amarjit Singh Bhatti. I live in America and visit India occasionally. I used to keep contact with Amarjit Singh on mobile phone and we had mutual coordination. Whenever any GST payment was to be made by Amarjit Singh Bhatti, he himself filled the cheque with his own hand and brought it to my knowledge and got my signature. I was in America from 2019 and came to India in 2022. I was told by Accountant Amarjit Singh Bhatti that he has done business deals with different companies/firms, so got my signatures on cheques of different amounts to pay the GST amounts against bills of different companies. It is pertinent to mention here that the Accountant Amarjit Singh Bhatti showed me a purchase bill in the name of a firm/company Luthra & Co amounting to Rs.1 crore. Thereafter, GST amount of Rs. 18,00,020/- got paid through me in the name of Luthra & Co, via RTGS of the Bank of India, B.R.S Nagar Ludhiana. Thereafter, the company Luthra & Co. Phagwara complained to the Kapurthala police that agents (Manish Kumar, Goldy and others) of the company Luthra & Co. prepared false/fake purchase bills in the name of the company B.S. Steels. On conducting enquiry, it came out that amount of Rs.18,00,020/-instead of depositing with Luthra & Co., it has been deposited in the account of Krishna Enterprises, Mandi Gobindgarh in Yes Bank. By this fraudulent act, amount has been deposited in Yes Bank in the account of Krishna Enterprises, Mandi Gobindgarh, whereas it was given the name of Luthra & Co. and even the cheque in the bank was sent in the name of Luthra & Co. Said money was deposited in the account of Krishna Enterprises, Mandi Gobindgarh with the connivance of officials of Yes Bank, Mandi Gobindgarh and all the money was withdrawn within 2 hours. On our

insistence with Yes Bank, this money was deposited back in our bank i.e. Bank of India. After this, we checked all the bills which were taken by our Accountant Amarjit Singh Bhatti and we were shocked when we saw that all these bills are bogus. We deposited the GST amount of all these bills amounting to Rs. 1,19,35,880/- in accounts through RTGS given by said people. After tracing these payments, it was found that these payments were also not made to the given names, whereas these were deposited in accounts of some other names and at some other places. Accountant Amarjit Singh Bhatti took undue advantage of my trust and prepared fake bills of various companies of his own with intention to commit fraud, then for making payments of OST amount against bills, by writing "Yourself for RTGS on various cheques of my company's account in Bank of India, Branch Bhai Randhir Singh Nagar, Ludhiana bearing A/c No.649320110000086 made payments on my behalf by filling wrong personal details of beneficiaries, by writing account number of his some associate, in connivance with officials of concerned banks, got transferred said amount in different accounts of his own associates in an illegal manner. Accountant Amarjit Singh Bhatti has committed the entire act in connivance with his associate Manish Kumar son Rakesh Kumar, resident of Village Fatehgarh Newa, P.S. Kheri Naudh Singh, District Fatehgarh Sahib (97813-00600) and concerned bank officials. Said amount has been withdrawn within 2 hours after transferring through RTGS. The details of which are as under:-1. Cheque No.064341 dated 25.04.2022, amount of Rs. 16,19,937/- Yes Bank bearing A/c No.001263300003240, Nitin Trading Company, P.K. Enterprises, cheque No.064342 dated 25.04.2022 amount of Rs.25,07,378/-, Yes Bank bearing A/c No.001263300001515, Navpreet Enterprises, cheque No.064349 dated 04.05.2022, amount of Rs.1,80,477/- bearing A/c No.001263300003240 in Yes Bank, Nitin Trading Company, P.K. Enterprises, cheque No.064347, dated 04.05.2022 amount of Rs.8,30,000/-, Yes Bank bearing A/c No.001263300001515, Navpreet Enterprises, cheque No.064348 dated 04.05.2022, amount of Ra 14,36,790/- bearing A/c No.001263300003948, Yes Bank, Prabhdayal Enterprises, V.K. Trading Company, cheque No.064351 dated 07.05.2022, amount of Rs.20,91,932/-, SBI Bank bearing A/c No.40441875972, Ram Enterprises, Aadi Shakti Jewellers, cheque No.064353 dated 25.04.2022, 10.05.2022, amount of Rs. 14,68,734/-RBL Bank bearing A/c No.409001590952, Shiv Trades, Satkar Enterprises. All these amounts transferred to which accounts were found to be bogus during enquiry. These GST amounts transferred to accounts of those companies/firms, their details are enclosed with the complaint. This is a very big organized gang, which is doing the work of bogus bills in Punjab and causing crores of rupees loss to the public exchequer of Punjab Government and Government of India and robbing crores of rupees from unknown and innocent businessmen. All these fraudulent payments were received by accused via cheques in my office at SCO 46-G. Bhai Randhir Singh Nagar, Ludhiana and made payments in wrong accounts through RTGS from the Bank of India, Branch Bhai Randhir Singh Nagar. I request you to immediately take action against these accused, so that this gang can be busted and my loss

can also be compensated. It would be your act of great kindness.”

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. 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:

“The present petitioner was the owner of Aadi Shakti Jewellers and out of the above noted total defrauded amount of Rs.1,19,35,880/-as GST refund from the complainant on the basis of fake invoices, an amount of Rs.20,91,932/-was got deposited in the bank account of firm of the present petitioner namely Aadi Shakti Jewellers. There is sufficient documentary evidence including bank record showing deposit of the said amount of Rs.20,91,932/-in the bank account of the firm of the present petitioner.”

REASONING:

7. Although it is an open and shut case of prosecution and there is digital evidence of deposit of Rs.20 lacs in the account of present petitioner but considering the fact that some of the account holders deposited the amount, it is not a case for custodial interrogation or pre-trial incarceration.

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. The Police did not arrest the petitioner; if they intended to arrest the petitioner, it was not impossible.

10. 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.

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 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.

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. The concerned trial court is authorized to delete, modify, or relax any of the above conditions and shall be competent to do so in accordance with the law.

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.

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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

20.02.2025
Jyoti Sharma

Whether speaking/reasoned: Yes
Whether reportable: No.