

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-51155-2024
Reserved on: 05.02.2025
Pronounced on: 07.02.2025

Sarabjit Kaur ...Petitioner

Versus

State of Punjab ...Respondent

CORAM: HON'BLE MR. JUSTICE ANOOP CHITKARA

Present: Ms. G.K. Mann, Sr. Advocate with
Mr. Anmol Jeevan Singh Gill, Advocate and
Mr. B.S. Bhalla, Advocate
for the petitioner.

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

Mr. Naresh Gopal Sharma, Advocate
for the complainant.

ANOOP CHITKARA, J.

FIR No.	Dated	Police Station	Sections
97	08.05.2024	Lopoke, District Amritsar Rural	420 IPC

1. The petitioner incarcerated in the FIR captioned above had come up before this Court under Section 483 of Bharatiya Nagarik Suraksha Sanhita, 2023, [BNSS], seeking regular bail.
2. In paragraph 16 of the bail petition, the accused declares that she has no criminal antecedents.
3. The facts and allegations are being taken from the status report filed by the State, which reads as follows:

“2. That the brief and relevant facts of the case are that the aforesaid FIR No. 97 dated 08.05.2024 was registered against the petitioner, co-accused Gursewak Singhand Sukhraj Singh as per the directions of the Senior Superintendent of Police, Amritsar (Rural) pursuant to a recommendation made by the Deputy Superintendent of Police (Headquarters), Amritsar Rural vide detailed enquiry report No. 18-5AP dated 10.02.2024 in his office after verifying the facts alleged the complainant Jatinder Singh son of Nishan Singh in his complaint No. 1768-AP dated 22.12.2023. The complainant had alleged in his aforesaid complaint that one application was filed by his father Nishan Singh relating to the

commission of cheating of Rs. 45 Lakh by giving a false inducement of sending him (Jatinder Singh) abroad and the aforesaid amount was transferred into the account No. 50100366743238 of HDFC Bank Kohali and Account No. 380201500431 of ICICI Bank but the petitioner and co-accused Gursewak Singh and Sukhraj Singh did not send him abroad and thereafter gave him an inducement that they will transfer their land in his favour but the petitioner and other co-accused did not return his amount nor transferred the land in his favour. The detailed facts mentioned by him in aforesaid complaint have been reproduced in the true translation of the FIR No. 97 dated 08.05.2024 attached with the petition as Annexure P-1, which may kindly be read as part of the present paragraph as same are not repeated here for the sake of brevity.”

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 status report.

6. It would be appropriate to refer to the following portions of the status report, which read as follows:

“5. That as per the version of the complainant, the petitioner in connivance with the other nominated co-accused had cheated him by causing a wrongful loss of Rs. 45 Lakh by giving his father a false inducement of sending him abroad.

6. That during the investigation, it was found that Rs. 36,42,300/- was transferred in the account of co-accused Sukhraj Singh and Gursewak Singh and remaining Rs. 8 Lakh was given in cash.

7. That an Investigation Report/Challan under section 193 BNS was submitted against the petitioner and co-accused Gursewak Singh in 16.09.2024 in the court of learned Judicial Magistrate First Class, Sub-division Ajnala, Amritsar. The learned Judicial Magistrate First Class, Sub-division Ajnala, Amritsar has framed Charges under section 420 and 120-B IPC under section 28.11.2024, to which they pleaded not guilty and claimed trial. So far no prosecution witness has been examined by the learned trial court. Now the next date of hearing is fixed on 19.03.2025 for the prosecution evidence.”

REASONING:

7. There is sufficient prima facie evidence connecting the petitioner with the alleged crime. However, pre-trial incarceration should not be a replica of post-conviction sentencing. Per paragraph 4 of the bail petition, the petitioner has been in custody since 18.07.2024. Per the custody certificate dated 04.02.2025, the petitioner's total custody in this FIR is 06 months and 17 days. Given the penal provisions invoked viz-a-viz pre-trial custody, 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 further pre-trial incarceration at this stage.

8. The investigation indicates that the petitioner is not the main accused, so the petitioner's bail shall not be treated as a precedent for granting bail to the other co-accused with a higher role.

9. 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.

10. Given above, provided the petitioner is not required in any other case, the petitioner shall be released on bail in the FIR captioned above subject to furnishing bonds to the satisfaction of the concerned Court and due to unavailability before any nearest Ilaqa Magistrate/duty Magistrate. Before accepting the surety, the concerned 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 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.

14. 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.

15. 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.

16. Any observation made hereinabove is neither an expression of opinion on the case's merits nor shall the trial Court advert to these comments.

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

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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

07.02.2025
Jyoti Sharma

Whether speaking/reasoned: Yes
Whether reportable: No.