



In the High Court of Punjab and Haryana, at Chandigarh

Criminal Misc. No. M-51578 of 2025

Reserved On: 07.11.2025

Pronounced On: 14.11.2025

Gaurav Kumar

... Petitioner(s)

Versus

State of Punjab

... Respondent(s)

CORAM: Hon'ble Mr. Justice Surya Partap Singh.

Present: Mr. G.P.S.Bal and Mr. Paras Khatri, Advocates
for the petitioner(s).

Mr. Jasdev Singh Thind, Deputy Advocate General,
Punjab, for the respondent.

Surya Partap Singh, J.

1. For the commission of offence punishable under Sections 318(4), 61(2) and 336(3) of the Bharatiya Nyaya Sanhita, 2023, hereinafter being referred to as “BNS” only and Sections 66(C) and 66(D) of the Information Technology Act, 2000 [Section 66 of IT Act and Sections 238 of BNS added later on], the FIR No. 02 dated 11.02.2025 has been lodged in Police Station State Cyber Crime, Phase-4, Punjab, District S.A.S. Nagar, Punjab.

2. This is second petition for bail, filed by the petitioner, under Section 483 of the Bharatiya Nagarik Suraksha Sanhita, 2023, hereinafter being referred to as “BNSS” only.

3. Briefly stating the facts emerging from the record are that the

Chief Engineer, Department of Mining and Geology, Government of Punjab.

In his above mentioned complaint, it was mentioned by the complainant that through fake and illegal website namely <https://minesandgeology.punjab.in>, a false representation had been made, that the above mentioned website is official website of their organization and that unsuspected individuals who used that website had been defrauded. As per complainant, the above mentioned fake website looks alike the legitimate website but it was being operated by illegal person and that initial investigation had revealed that:-

- a) the website had been registered on go GO-DADDY on 30.10.2024;
- b) the domain would expire on 20.10.2025;
- c) that the registered contact person was from Punjab;
- d) that the registered domain i.d. was D9032CBB076394DF1A14A1FC57C4119BB-IN;
- e) the registrar information was IANA ID-146f; and
- f) the site IP address was 118.139.179.203.

It was further alleged by the complainant that probably the above mentioned site was used for re-direction, so that the traffic can be moved to another site. While pleading that the above mentioned activities needed to be investigated, the complainant had requested for registration of FIR.

4. It is the case of the prosecution that in response to the above mentioned information a formal FIR of this case was lodged and the investigation taken up. As per prosecution during the course of investigation, the petitioner was arrested on 28.02.2025.

5. It has been contended on behalf of the petitioner that he has

been falsely implicated in the present case, and that in fact, the petitioner was working as an employee with a private contractor, and he had no connection with Government Department nor having any involvement in access to any IT infrastructure web hosting system or digital administration. According to learned counsel for the petitioner, the mobile of the petitioner, which was allegedly linked for the registration of alleged domain, had been misused without his knowledge or consent, most likely by a department worker or third party.

6. The learned counsel for the petitioner has claimed that there is no direct financial transaction or gain of any kind to the petitioner from the alleged website, and that the Bank record/account statement duly produced before the Investigating Officer makes it clear that petitioner had not received any monetary benefit from the alleged scam. It has also been contended by learned counsel for the petitioner that in the final report submitted by the police, there is no call record, exchange of message or electronic correspondence showing any link of the petitioner with the actual accused.

7. According to learned counsel for the petitioner, there is no evidence either direct or circumstantial to associate that the IP address used, was linked with the petitioner's device, location of network and that the laptop and mobile phone have already been recovered by the investigating agency and from those devices also nothing relevant has been found. While alleging that the benefit of bail has already been afforded to the co-accused Aakash Singh, against whom there were allegations of developing the website, the learned counsel for the petitioner has sought the benefit of bail

for the petitioner.

8. *Per contra*, the learned State counsel has argued that in the present case there are various specific and direct allegations with regard to usage of mobile number of the petitioner for the development of the website, which was misused for the purpose of defrauding the users, who wanted to use government website.

9. According to learned State counsel, without the use of mobile number of petitioner there was no possibility of developing and use of website and that without active support of the petitioner it was not possible that the website could have been used. As per learned State counsel to develop the illegal website the entire details must have been received by the petitioner, who shared the same with the developer of website. While alleging that a big scam has taken place due to development of fake website, the learned State counsel has sought the dismissal of instant bail petition.

10. The record has been perused carefully.

11. A careful perusal of the record shows that in the present case there are several factors which are required to be taken into consideration for the decision of instant bail petition. They are:-

- i) that the petitioner is already in custody for a period of more than seven months;
- ii) that the offence is triable by the Court of Judicial Magistrate;
- iii) that except the fact that mobile number of the petitioner has been used at the time of developing the website, there is no iota of evidence to show that the petitioner had ever

actively participated in the illegal activities or that he had acquired any monetary benefit from the same;

- iv) that the benefit of bail has already been afforded to the co-accused against whom there are allegations of creating fake website;
- v) that the quantum of loss caused to the state exchequer has not been quantified either by Investigating Agency or the concerned department;
- vi) that the trial is not likely to be concluded in near future.
- vii) that there is nothing on record to show that anything is yet to be recovered from the possession of the petitioner;
- viii) that detention of the petitioner behind the bar is not likely to serve any purpose; And
- ix) that there is nothing on record to show that if released on bail, the petitioner is likely to tamper with the evidence or influence with witnesses;

12. With regard to the legal aspect involved in the instant case, it is relevant to mention that the Hon'ble Supreme Court in the case of "***Dataram versus State of Uttar Pradesh and another***", 2018(2) R.C.R. (Criminal) 131, has observed that "*a fundamental postulate of criminal jurisprudence is the presumption of innocence, meaning thereby that a person is believed to be innocent until found guilty. However, there are instances in our criminal law where a reverse onus has been placed on an accused with regard to some specific offences but that is another matter and does not detract from the fundamental postulate in respect of other offences. Yet another important*

facet of our criminal jurisprudence is that the grant of bail is the general rule and putting a person in jail or in a prison or in a correction home (whichever expression one may wish to use) is an exception. Unfortunately, some of these basic principles appear to have been lost sight of with the result that more and more persons are being incarcerated and for longer periods. This does not do any good to our criminal jurisprudence or to our society. There is no doubt that the grant or denial of bail is entirely the discretion of the judge considering a case but even so, the exercise of judicial discretion has been circumscribed by a large number of decisions rendered by this Court and by every High Court in the country. Yet, occasionally there is a necessity to introspect whether denying bail to an accused person is the right thing to do on the facts and in the circumstances of a case”.

13. The principles laid down by the Hon’ble the Supreme Court of India in the case of ‘**Satender Kumar Antil Vs. Central Bureau of Investigation and Another**’, 2022 LiveLaw (SC) 577, are also relevant in this case. In the abovementioned case, it has been observed that “*the rate of conviction in criminal cases in India is abysmally low. It appears to us that this factor weighs on the mind of the Court while deciding the bail applications in a negative sense. Courts tend to think that the possibility of a conviction being nearer to rarity, bail applications will have to be decided strictly, contrary to legal principles. We cannot mix up consideration of a bail application, which is not punitive in nature with that of a possible adjudication by way of trial. On the contrary, an ultimate acquittal with continued custody would be a case of grave injustice*”.

14. Therefore, to elucidate further, this Court is conscious of the

basic and fundamental principle of law that right to speedy trial is a part of reasonable, fair and just procedure enshrined under Article 21 of the Constitution of India. This constitutional right cannot be denied to the accused as mandated by Hon'ble Apex court in "*Balwinder Singh versus State of Punjab and Another*", *SLP (Crl.) No.8523/2024*.

15. Taking into consideration the cumulative effect of all the aforesaid factors, it is hereby held that the petitioner is entitled for concession of bail, and that the present petition deserves to be allowed.

16. In view of above mentioned observations the present petition is hereby **allowed** accordingly, and the petitioner is admitted to bail subject to his furnishing personal bond and surety bond(s) to the satisfaction of learned trial Court.

17. It is, however, made clear that any observation made here-in-above is only for the purpose of deciding the present petition, and the same shall have no bearing on the merits of the case.

(Surya Partap Singh)
Judge

November 14, 2025

"DK"

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No