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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-53027-2024

Reserved on: 07.05.2025

Pronounced on: 19.05.2025

NIRMAL SINGH

...PETITIONER

VERSUS

STATE OF PUNJAB

...RESPONDENT

CORAM: HON'BLE MR. JUSTICE ANOOP CHITKARA

Present: Mr. Lakhwinder Singh, Advocate for the petitioner.

Mr. Sukhwinder Singh Rai, DAG, Punjab.

ANOOP CHITKARA, J.

FIR No.	Dated	Police Station	Sections
92	11.05.2024	City Moga, District Moga	408 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 10 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:

“xxx xxx xxx xxx

3. That it is respectfully submitted that instant case bearing FIR No.92 dated 11.05.2024 u/s 408 IPC, Police Station City-I Moga has been registered against petitioner Nirmal Singh son of Pargat Singh, on the statement of complaint moved by Nachhattar Singh son of Hari Singh to the SSP, Moga. It is claimed that Fusion Micro Finance Limited (earlier known as Fusion Micro Finance Private Limited) is registered under Companies Act, 1956. Its head Office is situated at Naraina Vihar, New Delhi. It is a non-banking finance company, which has been registered with Reserve Bank of India vide registration No. B14.02857 dated 28.01.2014. Said company used to provide help to the ladies for their family income. Nirmal Singh [petitioner] was posted as Relationship Officer at Moga Branch. He used to collect money from different members. On 20.10.2022 at about 3.00 p.m., when he was contacted, he said that he has finished his collection target and will reach in the branch by evening. Thereafter, his mobile phone was found to be switched off and he could not be contacted. Subsequently, it revealed that accused/petitioner has collected money from the members to the tune of Rs. 5,43,309/- by taking the instalments from different members as per the receipt book allotted to him but did not deposit the abovementioned collected amount with the company and as such committed fraud with the company. On the basis of above said complaint, FIR was registered.”

4. Counsel for the petitioner submits that he was given half of the salary by the company and on his asking for his entire salary he has been falsely implicated in the present case. He has approached the learned Additional Sessions Court, Moga for anticipatory bail vide which the same was dismissed. The petitioner's counsel prays for bail by imposing any

stringent conditions. If he repeats the offence or commit any offence where the sentence is more than 07 years, he would have no objection, if State files an application for cancellation of his bail. He further 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:

“xxx xxx xxx xxx

A. The role of the petitioner:

The petitioner was posted as Relationship Officer with Fusion Micro Finance Limited company, Moga Branch with effect from 02.08.2021 and his duty was to collect instalments of loans disbursed to folk ladies by the said company by issuing receipt and deposit the same with the said company. Since 20.10.2022, vide said company's receipt book No.18411910 to 18412000, petitioner collected instalments/money from the debtors to the tune of Rs. 5,43,309/- as per the above receipt book allotted to him but did not deposit the abovementioned collected amount with the company and as such committed fraud with the company.

B. The evidence against the petitioner:

Statements of debtors/clints of the company besides photocopies of receipts issued by the accused/petitioner to them from abovementioned receipt book No. 18411910 to 18412000 as acknowledgments of receipt of amounts of instalments from them.

REASONING:

7. Embezzlement relates to the year 2022 and FIR was registered in the year 2024 and there is no explanation for delay, if some people were defaulting in deposit in that case, company have to take immediate action instead to wait for two years. 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.
8. 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, subject to the compliance of terms and conditions mentioned in this order. 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.
9. 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.
10. 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)	

11. This order is subject to the petitioner’s complying with the following terms.
12. 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.
13. 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.
14. **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.**
15. Any observation made hereinabove is neither an expression of opinion on the case's merits nor shall the trial Court advert to these comments.
16. 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.
17. **Petition allowed** in terms mentioned above. All pending applications, if any, stand disposed of.

(ANOOP CHITKARA)
JUDGE

19.05.2025
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Whether speaking/reasoned: Yes
Whether reportable: No.