

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-53416-2024
Reserved on: 06.03.2025
Pronounced on: 18.03.2025

Kulwinder Singh ...Petitioner
Versus
State of Punjab ...Respondent

CORAM: HON'BLE MR. JUSTICE ANOOP CHITKARA

Present: Mr. Jagdip Singh Bhatta, Advocate for the petitioner.
Mr. Sukhdev Singh, AAG, Punjab.

ANOOP CHITKARA, J.

FIR No.	Dated	Police Station	Section
55	17.06.2024	Sadar Jalalabad, District Fazilka	13 of Punjab Travel Professionals (Regulation) Act, 2014

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 14 of the bail petition, the accused declares that he has no criminal antecedents.
3. The facts and allegations are being taken from the translated copy of FIR annexed with the bail petition as Annexure P-1, which reads as follows:

“Respected Sir, Singh Sahib Jathedar Baba Major Singh Ji Sodhi Dashmesh Tamadal, District Jathedar, Jathedar Jaswant Singh Ji, af District Sri Muktsor Sahib Sewa. Honorable SHO. Sir. Thana Sadar Jalalabad. Subject:- Fraud of money in the name of remittance abroad. Accused 1. Gurdev Singh son of Surit Singh 2. Kulwinder Singh son of Gurdev Singh 3. Rajan son of Gurdev Singh 4 Kailash Kaur wife of Gurdev Singh resident of Basti Bhattian Wall, city Ferozepur. Sir, it is requested that I Mandeep Singh son of Sr. Malkit Singh is a resident of Jodha Bhaini village Dhani Maan Singh Tehsil Jalalabad District Fazilka. It is requested that our Sakki Bhua and her son Rajan son Gurdev Singh (94785-xxxx) resident of Ferozepur city Basti Bhattian Wali cheated us about 36 lakh rupees by luring us to send me to America in the year 2018. Which we gave them in different ways. As some amount was deposited in their account, some amount in cash and some in Rajan's wife Viveka Rani's account. All this was given at the behest or assurance of his elder brother Kulwinder Singh (88720-xxxx) and his mother Kailash Kaur

(88725-xxxxx). Because they took the responsibility that I will go to America. After this they prepared the forged documents for US but sent me to Cyprus instead of America. On asking them about Cyprus, I was told that in a month or two I will be sent to America, but it has been more than four years since today. They did not give us any justice. When we found out about their deception, they trapped me in Cyprus and with the help of relatives I came back home. Then money takers kept visiting our house. Due to this reason my father's brain nerve was severely damaged and he was undergoing treatment in the hospital for a month. After this, we were going for a check up to the hospital but had an accident on the way. Due to which my father's hip broke. Then his hip was operated and he was on bed for about three years. In which the cost of the operation was about 25 to 27 lakhs. Some amount was taken from our relatives and rest of the money was paid by selling our land. Now this is Rajan agent number +357968xxxx whatsapp number. It has been almost four years now that we have been asking for money again and again but he is not taking the name of giving money and abuses us. I will be very thankful to you.”

4. 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. He further submits that the petitioner is living separately from the family since 2017 and his parents disowned him and he was not in relation with them.

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 dated 05.03.2025, which read as follows:

“5. That during the investigation conducted so far, it was found that the all the accused including the petitioner are the members of the same family and the accused are the close relatives of the complainant. On the inducement of the accused that they will send the complainant to America, the complainant paid Rs.36.00 lakhs to the accused. The accused neither sent the complainant to America nor returned the amount.

6. That it is denied that the petitioner has been falsely implicated in the FIR in question. The custodial interrogation of the petitioner is required to investigate the case effectively and to recover the amount from him. There is sufficient evidence against the petitioner and co-accused to prove their guilt. The case of the prosecution stands on sound footing. In view of grave nature of crime committed by the petitioner, the petitioner is not entitled to the concession of pre-arrest bail. No ground is made out for grant of pre-arrest bail to the petitioner. No cause of action has accrued to the

petitioner to file the present petition.”

REASONING:

7. As per complaint, the petitioner only gave assurance and nothing was paid to him.

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. 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.

10. 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.

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. 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

18.03.2025

Jyoti-II

Whether speaking/reasoned:	Yes
Whether reportable:	No