

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-54034-2024
Reserved on: 07.01.2025
Pronounced on: 22.01.2025

Subhash Sharma ...Petitioner

Versus

State of Punjab ...Respondent

CORAM: HON'BLE MR. JUSTICE ANOOP CHITKARA

Present: Mr. Abhimanyu Batra, Advocate
for the petitioner.

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

ANOOP CHITKARA, J.

FIR No.	Dated	Police Station	Sections
159	13.07.2024	Patran, District Patiala	318(4), 336(2), 338, 340 BNS, 2023

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

“Statement recorded by SI Sahib Singh 1827 for the registering of case against Surinder Singh son of Ramphal Singh resident of ward No. 02 Basti Raj Tohana, Subhash Sharma son of Ram Krishan resident of Bharbakar Colony Chandigarh Road Tohana, Rajesh Kumar son of Baru Ram resident of Ward No. 06 Raj Nagar Kaithal Road Jind under Sections 318(4), 338, 336, (2), 340 B.N.S. received by hand through Constable Sahil Singh 2257 in the police station, brief contents are as under: that I am a resident of the above said address and run a computer shop in sector 70 Mohali I have an Alto Car which the registration number is PB 27 F Model 2020 with chassis number MA3EUA61SOOF8 engine number F8DN6338138, which I drive through the Uber App, which I have rented my above said card to ZOOM car India Pvt. Ltd., company Bangalore, who book my said car and company inform me through

mobile, the renter of the vehicle books my car. They come to my house and give me the OTP of Zoom App and take the car and leave the car at my house after booking is over. On 02.07.2024 I was working in my shop and received a call from mobile number 72063xxxxx, who told his name Subhash Sharma who said 'I have booked your vehicle through Zoom app, I have to travel with my family for Salasar Khatu Shyam' who booked my car through Zoom app till 10.07.2024. After verifying his Aadhar card and license etc., I informed my wife that the above said man came to house on 02.07.2024 at around 11:30 in the morning, who gave me the otp number of Zoom App, and the car was given from my wife to him on my call. I had a GPS system installed in my car. When my vehicle did not return on the specific date, I started checking over my car and also established contact with the Zoom app. Now I have come to know that Surinder Singh son of Ramphal Singh resident of ward No. 02 Basti Raj Tohana, Subhash Sharma son of Ram Krishan resident of Bharbakar Colony Chandigarh Road Tohana, Rajesh Kumar son of Baru Ram resident of Ward No. 06 Raj Nagar Kaithal Road Jind by consulting after making my fake Aadhar card and PAN card and forged my signature and prepared fake affidavit and blank form 29,30 under my fake signature and sold my Alto car to dealer at the Patran. The above said persons who cheated me and took me into confidence and booked the vehicle through Zoom app and prepared fake document and sold my Alto car. I have scribed my statement to you which is correct. Appropriate legal Action should be taken against the above said persons. Sd/ Chander Prakash above attested."

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 during the course of investigation, the petitioner and other two accused were arrested by the police on 14.07.2024 and thereafter, as per the disclosure statement of the petitioner and others, they have got recovered the vehicle No. PB-27-F-8418 belonging to the complainant from Sharma Medical Hall, near New Bus Stand, Patran on 14.07.2024. As per the disclosure statement, they also disclosed that the vehicle was sold to Ajit Pal Sharma son of Rameshwar Dass owner of Sharma Medical Hall. The above said person Ajit Pal Sharma joined the investigation and he produced original RC of vehicle in the name of complainant and an affidavit executed by Chander Parkash Singh (complainant) and blank Forms No.29- 30 having signatures of Chander Parkash Singh (complainant), one Aadhaar Card No. 7278-2018-xxxx in the name of Chander Parkash Singh, but the photograph upon it was not of

Chander Parkash Singh. Apart from above, they also produced one PAN Card No. ANFPK4321A in the name of Chander Parkash Singh (complainant), but the photograph upon it was not of Chander Parkash Singh. All the above said documents other than RC were claimed to be forged by the petitioner and other co-accused. All the above said documents and car were taken into police custody as per rules.

6. That on 17.07.2024, during police remand, the petitioner and other two accused made a disclosure statement that they had booked one car make Ertiga No. HR-26-D-6557 from Zoom mobile app and brought the same from Mam Raj son of Kalyan Sham Sharma, resident of Palam, Delhi and they had come to Patran on 11.07.2024 to sell this car, but as no deal could be locked with any dealer, thus, they had parked the car in the plot situated at Nial Bypass, Dugal Road, Patran belonging one Prithvi Chand son of Banarasi Dass, R/o Tulsi Nagar, Patran. On the basis of above said disclosure statement, the petitioner and others got recovered above said car make Ertiga No. HR-26-D- 6557 from above said place. Thereafter, on checking the dashboard of the car, one Photostat RC of car No. HR-26-D-6557 in the name of Mam Raj son of Kalyan Saha Sharma, R/o # 178, Kartapuri, Gurgaon, one Aadhaar Card No. 7278-1016-5094 in the name of Rajesh Kumar son of Baru Ram, R/o #637-6B, Kaithal Road, Raj Nagar Colony, Jind, one Aadhaar Card No. 7278-2018-xxxx, PAN Card No. ANFPKxxxxx, Voter Card No. THN3xxxx, in the Mam Raj son of Kalyan Saha Sharma, R/o Palam, Delhi. All these three documents bear the photograph of accused Rajesh Kumar. All the above said documents were claimed to be forged by the petitioner and his co-accused and the same were taken into police custody along with car as per rules.

7. That on 24.09.2024, the official namely Durgesh, Legal Advisor of Zoom Car India Pvt. Ltd, Delhi was joined in the investigation, who confirmed the factum of listing the cars for self drive by Chander Parkash Sharma (complainant) and Mam Raj and also confirmed that the same were booked for self drive on Zoom App. Apart from above, on 25.09.2024, the offence U/s 61 (2) of BNS, 2023 was added in the present FIR from the facts came on record during the investigation.

8. That 27.09.2024, the complainant had produced before the investigating agency one PEN Drive containing the footage of the petitioner and his co-accused captured in CCTV camera, which was taken into police custody as per rules.

Role of present petitioner:-

10. That present petitioner in connivance with co-accused has firstly booked the car of the complainant through one mobile app Zoom to take car on rent and thereafter, they had taken the custody of the car from the complainant on the pretext of going to a religious place. However, after that the petitioner and his co-accused prepared forged and fabricated documents of the car and sold the car to one Ajit Pal Sharma. In the same fashion, the petitioner and his co-accused had brought another car Ertiga No. HR-26-D-xxxx from Mam Raj and kept the same in Patran and when the car was recovered, forged documents were recovered from the same. Thus,

the petitioner and his co- accused have committed a heinous offences U/s 318 (4), 336 (2), 338, 340 of Bhartiya Nayaya Sanhita, 2023.

Evidence against the petitioner

12. That at the time of recovery of both the cars/vehicles, the documents including an affidavit executed by Chander Parkash Singh (complainant), blank Forms No.29-30 having signatures of Chander Parkash Singh (complainant), one Aadhaar Card No. 7278-2018-xxxx in the name of Chander Parkash Singh with photograph of some other person, one PAN Card No. ANFPKxxxx in the name of Chander Parkash Singh (complainant) with photograph of some other person were duly recovered. All the above said documents were admitted by the petitioner and other co-accused to be forged. Similar forged documents have been recovered from the subsequent vehicle recovered by the police.”

7. Although there is sufficient prima facie evidence indicting and pointing towards petitioner’s involvement and is sufficient for framing charges or launching prosecution but for the purpose of bail, the same should not be denied.
8. 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 11 of the bail petition, the petitioner has been in custody since 14.07.2024. 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.
9. The petitioner's bail shall not be treated as a precedent for granting bail to the other co-accused with a higher role.
10. 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 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.
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 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.

15. 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.

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 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

22.01.2025
Jyoti Sharma

Whether speaking/reasoned: Yes
Whether reportable: No.