

CRM-M-56999-2024
CRM-M-60939-2024

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-56999-2024
Reserved on: 04.02.2025
Pronounced on: 19.02.2025

Harvinder Singh @ Harwinder Singh ...Petitioner

Versus

State of Punjab ...Respondent

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Jagtar Singh ...Petitioner

Versus

State of Punjab ...Respondent

CORAM: HON'BLE MR. JUSTICE ANOOP CHITKARA

Present: Mr. G.S. Randhawa, Advocate for
Mr. Paras Jagga, Advocate
for the petitioner(s).

Mr. Akshay Kumar, A.A.G., Punjab.

ANOOP CHITKARA, J.

FIR No.	Dated	Police Station	Sections
179	12.10.2024	Sadar Nabha, District Patiala	406, 420 IPC

1. Vide this common order, CRM-M No.56999 of 2024 and CRM-M No.60939 of 2024 are being disposed of as both the petition are arising out of same FIR, facts and allegations against both the petitioners are verbatim.
2. 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.
3. In paragraph 14 of the bail petition(s), the accused declares that he has no criminal antecedents.
4. The facts and allegations are being taken from the status report filed by the State in CRM-M-56999-2024, which reads as follows:

“5. That it is submitted that an application No. 11828/Peshi dated 01.10.2024 was submitted in the SSP Office, Patiala by Sarfaraj Khan alias Ladi, son of Bhola Khan, resident of Sangrur Road, Bhawanigarh, seeking registration of FIR against Jagtar Singh and Harwinder Singh, sons of Gurdeep Singh, residents of Alipur, Tehsil Nabha, District Patiala. The said application was received through the office of SSP, Patiala wherein the complainant has alleged that the accused persons have committed fraud and manipulation by usurping the amount of land lease. It is further alleged that the accused persons have also issued threats to kill the complainant.

6. That accordingly the inquiry was marked to DSP, Sub Division, Nabha. Based on the inquiry of the complaint conducted so far, statements from both parties, submitted documents, statements of evewitnesses, and inquiries made from both parties, it has been found that complainant Sarfaraj Khan's employer Ajay Goyal, son of Narinder Prakash, resident near Radha Swami Satsang Ghar Rohti Pull Nabha, owned approximately 11 acres of agricultural land in village Alipur, which was purchased in his daughter's name. The complainant Sarfaraj Khan was responsible for maintaining and managing the lease arrangements of this land.

7. That the witness Lakhwinder Singh, son of Nand Singh, resident of village Shamundgarh Chhanna, Tehsil Dhuri, District Sangrur, who owns a flour mill near Railway Station Chhitawalan Road, had good relations with both the complainant Sarfaraj Khan and the accused parties Harwinder Singh and Jagtar Singh, sons of Gurdeep Singh, residents of Alipur, Tehsil Nabha, District Patiala. For many years, Lakhwinder Singh had been helping arrange the lease of Ajay Goyal's land.

8. That on 10.05.2022, through Lakhwinder Singh, the land was leased to Harwinder Singh (the petitioner) and Jagtar Singh for one year at the rate of Rs. 55,500/- per acre. Due to mutual trust and Lakhwinder Singh's assurance, no written agreement was made. Initially, Harwinder Singh (the petitioner) and Jagtar Singh gave a cheque of Rs. 2,88,310/- to Ajay Goyal as half of the lease amount, after deducting expenses for motor and other costs. This amount was credited to Ajay Goyal's account.

9. That before sowing of wheat, when the complainant Sarfaraj Khan asked Lakhwinder Singh to get the remaining half payment from Harwinder Singh (the petitioner) and Jagtar Singh, on 12.11.2022, Lakhwinder Singh settled accounts with them. The remaining was Rs. 3,05,250/-, from which after deducting field and motor expenses, Jagtar Singh issued cheque number 004xxx for Rs. 3,00,600/- from his, bank account number 652800xxxxx, State Bank of India, Grain Market Nabha branch, in Ajay Goyal's name.

10. That Harwinder Singh (the petitioner) and Jagtar Singh assured that they would pay the cash amount within 10-20 days and would get back their cheque, but they deliberately expire the validity of the said cheque by delaying tactics. When they were confronted, they admitted to intentionally deceiving the complainant of Rs. 3,00,600/- and refused to pay. The complainant then filed a complaint at Police Chowki Chhitawala, Police Station Sadar Nabha.

11. That on 05.10.2023, Jagtar Singh and Harwinder Singh (the petitioner) gained the complainant Sarfaraj Khan's trust and made an agreement dated 05.10.2023 to settle accounts and verify the payment status of their cheque. However, Harwinder Singh (the petitioner) and Jagtar Singh did not show up on 07.10.2023. Then on 19.10.2023, in the presence of complainant Sarfaraj Khan,

witness Lakhwinder Singh again spoke with Jagtar Singh and Harwinder Singh (the petitioner) over phone regarding the remaining lease amount. On 19.10.2023, Harwinder Singh (the petitioner) and Jagtar Singh assured the complainant over phone and offered to pay Rs. 2,50,000/- instead of the pending amount of Rs. 3,00,600/-. The complainant discussed this with his employer Ajay Goyal, who agreed to accept Rs. 2,50,000/-. On Lakhwinder Singh's intervention, Jagtar Singh and Harwinder Singh assured to pay Rs.2,50,000/- on 20.10.2023. However, when witness Lakhwinder Singh tried to contact them on 20.10.2023 in the complainant's presence, they neither answered calls all day nor honored their agreement and promises.

12.That therefore the inquiry conducted so far has revealed that both brothers Jagtar Singh and Harwinder Singh (the petitioner) leased 11 acres of land in village Alipur belonging to complainant Sarfaraj Khan's employer Ajay Goyal at Rs. 55,500/- per acre. They initially paid half the lease amount of Rs. 2,88,310/- by cheque, but then as part of a premeditated conspiracy, they deliberately let their cheque for the remaining amount of Rs. 3,00,600/ expire and fraudulently misappropriated the money, thereby committing criminal breach of trust. This constitutes offenses under sections 406, 420 IPC against Jagtar Singh and Harwinder Singh, both sons of Gurdeep Singh, residents of Alipur, Tehsil Nabha, District Patiala.

13.That accordingly the said inquiry report was sent to SSP Patiala, who after going through the report got satisfied with it and directed the SHO, Sadar Nabha to proceed with it."

5. 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.

6. The State's counsel opposes bail and refers to the status report.

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

"That the investigation has revealed that the petitioner Harwinder Singh along with co-accused Jagtar Singh took agricultural land measuring 11 acres situated at Village Alipur on lease for a period of one year at the rate of Rs.55,500/- per acre through witness Lakhwinder Singh on 10.05.2022. Initially, they paid Rs.2,88,310/- as half lease amount through cheque after deducting expenses for motor and field maintenance."

REASONING:

8. The investigation conducted so far clearly points out that the petitioner played very smartly by deceiving the deceased that he would be paying money and in the process, all efforts were that the cheque expires but even if the cheque expires, the victim does not become remedy less. In addition to filing of present FIR, he also has remedy of filing civil suit for recovery of money. Further it cannot be lost sight of the fact that the victim was also aware of the fact that petitioner is not coming clean, despite that he kept

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on listening to him. Petitioner’s conduct clearly points out towards thuggee but is not sufficient which would justify custodial interrogation or pre-trial incarceration.

9. 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.

10. 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. 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 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 Ilaka 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.

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15. 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.

16. 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.

17. 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.

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

19.02.2025
Jyoti Sharma

Whether speaking/reasoned: Yes
Whether reportable: No.