

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-59477-2024
Reserved on: 07.01.2025
Pronounced on: 13.01. 2025

Sahbaj ...Petitioner

Versus

State of Punjab ...Respondent

CORAM: HON'BLE MR. JUSTICE ANOOP CHITKARA

Present: Mr. Ashwani Gaur, Advocate, for the petitioner.

Mr. Akshay Kumar, AAG, Punjab.

ANOOP CHITKARA, J.

FIR No.	Dated	Police Station	Sections
02	04.01.2024	Bhogpur, District Jalandhar	457, 379 IPC (379 IPC deleted and 380 IPC added later on)

1. The petitioner incarcerated in the FIR captioned above came before this Court under Section 483 of Bharatiya Nagarik Suraksha Sanhita, 2023, [BNSS], seeking regular bail.

2. Per paragraph 9 of the bail application and the reply dated 04.01.2025, the accused has the following criminal antecedents:

Sr. No.	FIR No.	Date	Sections	Police Station
1.	2	05.01.2024	307, 414 IPC and Section 25 of the Arms Act	Shergarh, District Mathura

3. The facts and allegations are being taken from the reply filed by the State, which reads as follows:

“3. That it is respectfully submitted that on receipt of copy of order dated 03.12.2024 by this Hon'ble Court, the deponent has discussed the matter with the S.H.O. Police Station City Bhogpur, District Jalandhar Rural, after discussion and perusal of record, it has been revealed that Parshottam Singh, Manager, Punjab National Bank, Branch Bhogpur, son of Sh. Dharam Singh resident of Jatroon, PS Chowari, District Chamba,

State of Himachal Pradesh, Phone No. 97791-35755, Age about 50 suffered statement to the following effect:-

"...Statement of Parshottam Singh, Manager, Punjab National Bank, Branch Bhogpur stated that I am resident of above- mentioned address and am posted as Manager, Punjab National Bank, Branch Bhogpur, PS Bhogpur, District Jalandhar. One ATM of our bank is installed outside our bank. During intervening night of dt. 03/04.01.2021 at time between 3:29 AM to 3.45 AM unidentified persons came in one black colour Creta Car and stole Rs.07 Lac from ATM by cutting the ATM with gas cutter. Necessary legal action be taken and those unidentified persons be caught and the amount stolen from ATM be recovered and returned to bank. I was going to police station to report this incident and you met. Statement recorded, heard, is correct. Sd/- Parshottam Singh 04.01.2024. Attested, Sd/- Jaswinder Singh ASI PS Bhogpur District Jalandhar Date 04.01.2024"

Accordingly, the present FIR No. 02 dated 04.01.2024 offence under Sections 457, 379 IPC was registered at Police Station Bhogpur, District Jalandhar (Rural) against unknown persons."

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 reply.

6. It would be appropriate to refer to the following portions of the reply, which read as follows:

"17. That it is respectfully submitted that with respect to this Hon'ble Court's order dated 03.12.2024, the role of the petitioner; evidence against the petitioner and the petitioner's custody certificate is given below:-

(A) Role of the petitioner:

(i) Petitioner, Sahbaj, is found to have participated in a conspiracy to commit theft of cash at an ATM of Punjab National Bank, located at Bhogpur, District Jalandhar (Rural). In the intervening night of 03/04th January 2024, the ATM of Punjab National Bank, Branch Bhogpur was damaged and cut-off by the petitioner and his accomplice and approximately Rs. 7,00,000 were stolen using a gas cutter and other connected tools.

(ii) Petitioner is nominated as accused based on a specific disclosure statement made by his co- accused Sajid Mev in case FIR No. 02 dated

05.01.2024, PS Shergarh, District Mathura, (U.P.) This disclosure statement indicates that the petitioner was part of the group that executed the theft and played an active role in commission of theft proceedings.

(B) The evidence against the petitioner:

(i) The confessional statement of co-accused Sajid Mev which disclosed that the petitioner received Rs. 2,68,000 as his share of the stolen amount, out of which Rs.1,68,000 were deposited into his bank account at Canara Bank. The bank receipt and remaining amount of Rs.1,00,000 in cash has been recovered from the petitioner by U.P. police.

(ii) A gas cutter, gas cylinder, and 05 plastic trays along with other tools used in the theft were recovered on 29.02.2024 from the fields of village Sadha Chak, GT Road, Bhogpur, District Jalandhar, on the basis of the disclosure statement of the petitioner.”

7. 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.

8. Per paragraph 7 of the bail petition, the petitioner has been in custody for more than 08 months. Per the custody certificate dated 06.01.2025, the petitioner’s total custody in this FIR is 10 months and 08 days.

9. 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 further pre-trial incarceration at this stage.

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 may file an application for cancellation of this bail before the Sessions Court, which shall be at liberty to cancel this bail.
19. Any observation made hereinabove is neither an expression of opinion on the case's merits nor shall the trial Court advert to these comments.
20. 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.
21. **Petition allowed** in terms mentioned above. All pending applications, if any, stand disposed of.

(ANOOP CHITKARA)
JUDGE

13.01.2025
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Whether speaking/reasoned: Yes
Whether reportable: No.