



IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-63682-2024
DECIDED ON: 07.01.2025

RAVINDERPAL SINGH

.....PETITIONER

VERSUS

STATE OF PUNJAB

.....RESPONDENT

CORAM: HON'BLE MR. JUSTICE SANDEEP MOUDGIL

Present: Mr. Gaurav Datta, Advocate
for the petitioner.

Mr. Jasjit Singh Rattu, DAG, Punjab.

SANDEEP MOUDGIL, J (ORAL)

1. Relief sought

The jurisdiction of this Court has been invoked under Section 483 of BNSS, 2023 for grant of regular bail to the petitioner in FIR No.140, dated 30.04.2024, under Sections 406, 419, 420, 467, 468, 471, 120-B of IPC, 1860 registered at Police Station Sohana, District SAS Nagar, Mohali.

2. Prosecution story setup in the present case as per the version in the FIR as under:-

“Application no. 6867/ Peshi/ Senior Superintendent of Police, dated 08.12.2023. To, The Senior Superintendent of Police, Sahibzada Ajit Singh Nagar. Sub: Application against Harjinder Singh Dealer Mobile No.98725-95178, Bhagwan Singh Mob. No.9779134574 (Name a disclosed by the dealer), describe him as owner of the land and therefore have committed fraud approximately Rs. 1.37 Crores. Sir, in reference to the above cited subject, it is respectfully

submitted that I, Didar Singh son of Prem Singh resident of Village Baliailli Tehsil and District Sahibzada Ajit Singh Nagar. I had talked with Harjinder Singh Dealer resident of Ballomajra Tehsil and District Sahibzada Ajit Singh Nagar, Mohali for the purchase of land. Harjit Singh had got done a deal of land measuring 18 marla situated in Village Mundi Kharar Tehsil Kharar. The person with whom, the dealer had got done the deal of land, had told his name as Bhagwan Singh. Bhagwan has also got issued his Aadhar card and pan card on the name of Bhagwan Das. The agreement of this land was got executed on the name of Paramjit Kaur wife of Didar Singh resident of Village Baliailli Tehsil and District Sahibzada Ajit Singh Nagar. On dated 28.08.2023, advance money of Rs. 60 Lakh was given i.e. Rs. 30 Lakh in cash and Rs. 30 Lakh through cheque no. 625959. Further on dated 04.09.2023 an amount of Rs. 10 Lakh was also given. Thereafter on dated 08.09.2023, an amount of Rs. 7 Lakh was given to the seller. After that on dated 10.10.2023 an amount of Rs. 9 Lakh through cheque no. 716513, Rs. 6 Lakh was given in cash on dated 10.10.2023. Then Rs. 9 Lakh was given through cheque no. 716517 on dated 13.10.2023, Rs. 6 Lakh through cheque no. 716518 dated 13.10.2023 and then Rs. 7 Lakh through cheque no. 716519 dated 14.10.2023 to the seller. The seller had returned the cheque no. 625959 of Rs.30 Lakh and then received three cheques bearing no. 716507, 716508 and 716509 dated 19.09.2023 and each cheque was that of Rs. 9/9 Lakh. He said that it is difficult to clear the cheque of Rs.30 Lakh. Thereafter Rs. 3 Lakh was given in cash on dated 19.09.2023. After that on dated 19.09.2023, an amount of Rs. 3 Lakh was given in cash. Therefore the total paid amount comes to Rs. 1,32,00,000/-• Bhagwan Singh has received this amount by informing his fake name. The sale deed was to be registered on dated 20.11.2023. But the Bhagwan Singh did not come to get register the sale deed. We have made phone call to him many times for the registration of sale deed but he did always pretend to do so. When we asked him to hand over the

possession, he was again pretending. One day, forged Bhagwan Singh made phone call from 9779134574 that he will not get register the sale deed and fraud has been committed with you. When, we have verified the fact and came to know that Bhagwan Singh is a forged seller. It is requested that enquiry in this regard be conducted. My amount be returned. I shall be thankful to you. Applicant Didar Singh son of Prem Singh resident of Village Balialli Tehsil and District Sahibzada Ajit Singh Nagar. Mobile No.9814216208, 8264742081. The Senior Superintendent of Police, District Sahibzada Ajit Singh Nagar has marked the application to Superintendent of Police, Rural District Sahibzada Ajit Singh Nagar for further action. He has mentioned in his letter no. 582/5S/ Superintendent of Police, (Rural) dated 11.03.2024, in the conclusion report that; During enquiry, it has been found that the applicant had sold his land situated in the village in the year 2023. He was willing to purchase commercial land in Mundi Kharar. In this regard, applicant has hold talk with Harjinder Singh Gill Property dealer. He is known to Harwinder Singh son of Naib Singh resident of Village Balialli, who is nephew of the applicant. Harjinder Singh told to the applicant that he has a P.G type building in Mundi Kharar District Sahibzada Ajit Singh Nagar. The applicant has seen the building and was agreed from the same. Then the opposite party got met the applicant with fake owner Bhagwan Singh (Who was bearing Namdhari cloths). The forged has given the photo copy of his Aadhaar card to the applicant However, the applicant had belief on the opposite party Harjinder Singh. On dated 25.08.2023, the forged Bhagwan Singh, an amount of Rs. 1 Lakh was given as token money (Sai) to the forged Bhagwan Singh, Harjinder Singh Dealer, son Amninder Singh, relative Harnek Singh and Resham @ Kala driver of Bhagwan Singh in the Sindhi Sweets, near TB2, Near Court Complex, Mohali. In this regard, the applicant has presented an audio recording. Thereafter, the applicant entered into an agreement with the forged Bhagwan Singh with regard to the property /

Building land measuring 0 kanal 18 marla comprised of Khewat no. 190/183. Khatoni no. 206, Khasra no. 14//3/2/2 (2-9) 14//8/2 (2-5) Parts 2 being 5/26 share out of land measuring 4 kanal 14 marla as per Jamabandi for the year 2019-2020 situated in the area of Village Mundi Kharar, Hadbast No. 185, Tehsil Kharar District Sahibzada Ajit Singh Nagar. The agreement to sell was executed on dated 28.08.2023 for sale consideration of Rs. 1.37 Crore in the name of his wife Paramjit Kaur in the court complex, Mohali. The date for registration of sale deed was fixed for 31.10.2023. the advance money of Rs. 30 Lakh was given to the forged Bhagwan Singh through cheque no. 625960 dated 28.08.2023 of Axis Bank, Branch Phase-7, Mohali. Bhagwan Singh had mentioned the details in this regard at the back side of the agreement, which is bearing the signatures of Bhagwan Singh and applicant. Then Bhagwan Singh demanded more amount of 10 Lakh as advance money. The applicant has given Rs.10 Lakh on dated 04.09.2023 in cash to Bhagwan Singh at Mohali. The receipt was reduced in writing and signatures were done. After some time, Bhagwan Singh said to the applicant, it is difficult to clear the cheque of Rs. 30 Lakh in his account. The bank officials are saying him to deposit the cheque of less amount. Then the applicant had given three cheques to the forged Bhagwan Singh, which are bearing cheque no. 716507 of Rs. 9 Lakh dated 28.08.2023, cheque no. 716508 of Rs. 9 Lakh dated 28.08.2023 and cheque no. 716509 of Rs. 9 Lakh dated 28.08.2023. Then the forged Bhagwan Singh visited the applicant and returned the cheque of Rs. 30 Lakh to the applicant. He took the application in his confidence, got his signatures on the cheques and then got cleared all the cheques from his bank. After some time, the forged Bhagwan Singh again demanded an amount of Rs. 15 Lakh from the applicant. Applicant has given an amount of Rs. 6 Lakh in cash and an amount of Rs. 9 Lakh through cheque no. 716513 to the applicant on dated 10.10.2023 and receipt has been issued, bearing signatures of the forged Bhagwan Singh, applicant and Harnek Singh.

Thereafter, forged Bhagwan Singh hold talk with applicant t get registered the deed on 13.10.2023. Then on dated 11.10.2023, Applicant had purchased a stamp paper of an amount of Rs. 03 Lakh 28 thousand and get registered the same from deed writer, which bears the signatures of forged Bhagwan Singh and Paramjeet Kaur wife of the applicant. On dated 12.10.2023, forged Bhagwan Singh demanded more amount from the applicant. Then, applicant given a cheque No. 670570 dated 12.10.2023 bearing amount of Rs. 9 lakh and cheque No. 149707 dated 12.10.2023 bearing amount of Rs. 9 lakh to the forged applicant Bhagwan Singh and get settled the amount from the account of the applicant. Thereafter, on dated 13.10.2023, applicant party reached at the office of Tehsildar Kharar. Applicant paid registration fee of Rs. 1,90,336/- and TDS of Rs. 82 thousand and given cheque of more amount of Rs. 9 lakh and one cheque No. 716518 dated 13.10.2023 bearing amount of Rs. 6 Lakh to Bhagwan Singh. Firstly, forged Bhagwan Singh asked the applicant to get cleared the cheque, then forged Bhagwan Singh took applicant into confidence and got his signatures and get cleared the same in his account. Forged Bhagwan Singh with intention to commit fraud, asked applicant that he will reach in the office of Tehsildar, Kharar, District SAS Nagar. Thereafter, forged Bhagwan Singh made excuses to the applicant and did not reached at the office of Tehsildar, Kharar, District SAS Nagar and went away on the pretext of getting done registration later. Thereafter, on dated 26.10.2023, forged Bhagwan Singh hold talk with applicant with regard to postpone the date of registration and got prepared the receipt of postponing the date. Date of registration was mention as 20.11.2023 on the receipt and promised to deliver the possession of the P.G. on 19.11.2023. later, Forged Bhagwan Singh neither get done the registration in favour of the applicant, nor handed over the possession of the P.G. Thereafter applicant came to know that he was forged Bhagwan Singh. In this regard, real Bhagwan Singh was joined in the investigation and his side has been hard. He

has recorded in his statement that he had not executed any agreement or received advance from anyone of his P.G. / Land Mundi Kharar District SAS Nagar. From the preliminary enquiry conducted till today, it has been found that dealer Harjinder Singh Gill under a grave conspiracy, entered into an agreement of building (P.G.) on a land situated at Mundi Kharar, District SAS Nagar by presenting a forged person namely Bhagwan Singh (9779134574) and during investigation, from the electronic evidence, from the driver of car no. PB65AZ4986, who used mobile no. 9779134574 of Charanjit Singh @ Karamjit Singh @ Bitu son of Gurdial Singh @ Dayal Singh resident of Village Chamali District Ropar as well as in connivance with 2/3 other persons have brought the applicant in the bank, got his signatures and got withdrawn an amount of Rs.1.19 Crore from his account in Phase-7 Mohali and have received an amount of Rs. 6 Lakh in cash. Therefore received total amount of Rs. 1.25 Crore and then entered into an agreement to sell the P.G situated in Mundi Kharar, which belong to actual Bhagwan Singh, which has been executed in the court complex Mohali. Then did not get registered the sale deed. They have also done tempering with the Aadhaar card of actual Bhagwan Singh. Then impersonated as Bhagwan Singh and appended signatures on the cheques. Further used car no. PB65AZ4986 Make Verna Fluidic. Then impersonated as actual Bhagwan Singh and got N.O.C of the P.G./ Building of actual Bhagwan Singh. Took the applicant in their confidence, hatched conspiracy and committed fraud worth Rs. 1.25 Crore. The offence has been found as cognizable, Besides this, during investigation, if involvement of any other person will be found, then appropriate legal action will be taken against them. Therefore, if approved, appropriate directions be given to Station House Officer, Police Station Sohana to register FIR U/S 406/419/420/467/468/471/120-B of IPC against Harjinder Singh Gill (9872595178) S/o Dharam Singh R/o Village Ballomajra, Tehsil and District SAS Nagar. Report is hereby presented. Sd. Superintendent of

Police(Riral), District Sahibzada Ajit Singh Nagar. Upon this, Senior Superintendent of Police, District Sahibzada Ajit Singh Nagar has marked to Station House Officer Police Station Sohana to register the case and investigation. Sd. Senior Superintendent of Police, District Sahibzada Ajit Singh Nagar. Upon receipt, FIR has been registered U/S 406/419/420/467/468/471/120-B of IPC against Harjinder Singh Gill (9872595178) S/o Dharam Singh R/o Village Ballomajra, Tehsil and District SAS Nagar, the driver of car no. PB65AZ4986, who used mobile no. 9779134574, who used car No. PB65AZ4986 Make Verna Fluidic of forged Bhagwan Singh as well as against 2/3 other unknown persons. Registered FIR is sending to Illaqa Magistrate and senior officers through post (daak). Information has been given to control room, Mohali. Original application and FIR were retained for further investigation by I Inspector/SHO. Instructions had been issued to Record Munshi for completing record.”

3. **Contentions**

On behalf of the petitioner

Learned counsel for the petitioner contends that the allegation against the petitioner is that he along with other co-accused has defrauded the complainant to the tune of Rs.1.25 Crore under the guise of a land sale. He further contends that the petitioner has been falsely implicated in the present case as the petitioner has not committed any cheating with the complainant nor he has received any alleged money. It has been further contended that there is no specific allegation that the petitioner has received any alleged money in cash or alleged cheques from the complainant or presented the same for credit in his account added with the fact that he is a man of clean antecedents as he is not involved in any other case.

He further contended that co-accused namely Kulwinder Singh has been granted the concession of anticipatory bail by this Court vide order dated 29.10.2024 passed in CRM-M-54283-2024 (Annexure P-3).

On behalf of the State

On the other hand, learned State counsel has produced the custody certificate of the petitioner today in Court, which is taken on record. He seeks dismissal of the instant petition on the ground that the petitioner along with co-accused has defrauded the complainant to the tune of Rs.1.25 Crore in respect of sale of land and it is the petitioner, who impersonated Bhagwan Singh, the actual owner of the land and entered into agreement to sell with the complainant.

4. **Analysis**

Be that as it may, considering the custody period i.e. 5 months and 20 days for which the petitioner has suffered incarceration and the fact that the dispute is related to some agreement to sell; co-accused of the petitioner namely Kulwinder Singh has been granted the concession of anticipatory bail by this Court vide order dated 29.10.2024 passed in CRM-M-54283-2024 (Annexure P-3); the petitioner is not a habitual offender as he is not involved in any other case, as is evident from custody certificate in addition to the fact that investigation is complete, challan stands presented to Court on 05.10.2024, charges are yet to be framed and total 15 prosecution witnesses have been cited, which is suffice for this Court to infer that the conclusion of trial will take long time for which the petitioner cannot be detained behind the bars for an indefinite period.

Reliance can be placed upon the judgment of the Apex Court rendered in “***Dataram versus State of Uttar Pradesh and another***”, 2018(2) ***R.C.R. (Criminal) 131***, wherein it has been held that the grant of bail is a general rule and putting persons in jail or in prison or in correction home is an exception. Relevant paras of the said judgment is reproduced as under:-

“2. A fundamental postulate of criminal jurisprudence is the presumption of innocence, meaning thereby that a person is believed to be innocent until found guilty. However, there are instances in our criminal law where a reverse onus has been placed on an accused with regard to some specific offences but that is another matter and does not detract from the fundamental postulate in respect of other offences. Yet another important facet of our criminal jurisprudence is that the grant of bail is the general rule and putting a person in jail or in a prison or in a correction home (whichever expression one may wish to use) is an exception. Unfortunately, some of these basic principles appear to have been lost sight of with the result that more and more persons are being incarcerated and for longer periods. This does not do any good to our criminal jurisprudence or to our society.

3. There is no doubt that the grant or denial of bail is entirely the discretion of the judge considering a case but even so, the exercise of judicial discretion has been circumscribed by a large number of decisions rendered by this Court and by every High Court in the country. Yet, occasionally there is a necessity to introspect whether denying bail to an accused person is the right thing to do on the facts and in the circumstances of a case.

4. While so introspecting, among the factors that need to be considered is whether the accused was arrested during investigations when that person perhaps has the best opportunity to tamper with the evidence or influence

witnesses. *If the investigating officer does not find it necessary to arrest an accused person during investigations, a strong case should be made out for placing that person in judicial custody after a charge sheet is filed. Similarly, it is important to ascertain whether the accused was participating in the investigations to the satisfaction of the investigating officer and was not absconding or not appearing when required by the investigating officer. Surely, if an accused is not hiding from the investigating officer or is hiding due to some genuine and expressed fear of being victimised, it would be a factor that a judge would need to consider in an appropriate case. It is also necessary for the judge to consider whether the accused is a first-time offender or has been accused of other offences and if so, the nature of such offences and his or her general conduct. The poverty or the deemed indigent status of an accused is also an extremely important factor and even Parliament has taken notice of it by incorporating an Explanation to section 436 of the Code of Criminal Procedure, 1973. An equally soft approach to incarceration has been taken by Parliament by inserting section 436A in the Code of Criminal Procedure, 1973.*

5. To put it shortly, a humane attitude is required to be adopted by a judge, while dealing with an application for remanding a suspect or an accused person to police custody or judicial custody. There are several reasons for this including maintaining the dignity of an accused person, howsoever poor that person might be, the requirements of Article 21 of the Constitution and the fact that there is enormous overcrowding in prisons, leading to social and other problems as noticed by this Court in In Re-Inhuman Conditions in 1382 Prisons, 2017(4) RCR

*(Criminal) 416: 2017(5) Recent Apex Judgments (R.A.J.)
408 : (2017) 10 SCC 658*

6. The historical background of the provision for bail has been elaborately and lucidly explained in a recent decision delivered in Nikesh Tara chand Shah v. Union of India, 2017 (13) SCALE 609 going back to the days of the Magna Carta. In that decision, reference was made to Gurbaksh Singh Sibbia v. State of Punjab, (1980) 2 SCC 565 in which it is observed that it was held way back in Nagendra v. King-Emperor, AIR 1924 Calcutta 476 that bail is not to be withheld as a punishment. Reference was also made to Emperor v. Hutchinson, AIR 1931 Allahabad 356 wherein it was observed that grant of bail is the rule and refusal is the exception. The provision for bail is therefore age-old and the liberal interpretation to the provision for bail is almost a century old, going back to colonial days.

7. However, we should not be understood to mean that bail should be granted in every case. The grant or refusal of bail is entirely within the discretion of the judge hearing the matter and though that discretion is unfettered, it must be exercised judiciously and in a humane manner and compassionately. Also, conditions for the grant of bail ought not to be so strict as to be incapable of compliance, thereby making the grant of bail illusory.”

Therefore, to elucidate further, this Court is conscious of the basic and fundamental principle of law that right to speedy trial is a part of reasonable, fair and just procedure enshrined under Article 21 of the Constitution of India. This constitutional right cannot be denied to the accused as is the mandate of the Apex court in “Hussainara Khatoon and

ors (IV) v. Home Secretary, State of Bihar, Patna”, (1980) 1 SCC 98.

Besides this, reference can be drawn upon that pre-conviction period of the under-trials should be as short as possible keeping in view the nature of accusation and the severity of punishment in case of conviction and the nature of supporting evidence, reasonable apprehension of tampering with the witness or apprehension of threat to the complainant.

5. DECISION:

In view of the discussions made hereinabove, the petitioner is hereby directed to be released on regular bail on his furnishing bail and surety bonds to the satisfaction of the trial Court/Duty Magistrate, concerned.

In the afore-said terms, the present petition is hereby allowed.

However, it is made clear that anything stated hereinabove shall not be construed as an expression of opinion on the merits of the case.

07.01.2025

Poonam Negi

(SANDEEP MOUDGIL)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes/No
Yes/No