

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-65017-2024
Reserved on: 13.02.2025
Pronounced on: 17.02.2025

Rajesh Kumar ...Petitioner

Versus

State of Haryana ...Respondent

CORAM: HON'BLE MR. JUSTICE ANOOP CHITKARA

Present: Ms. Shivani Jaglan, Advocate
for the petitioner.

Mr. Aashish Bishnoi, D.A.G., Haryana.

ANOOP CHITKARA, J.

FIR No.	Dated	Police Station	Sections
458	20.05.2023	Samalkha, District Panipat	180, 420, 406, 120-B IPC

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. Per paragraph 16 of the bail application, the accused has the following criminal antecedents:

Sr. No.	FIR No.	Date	Offenses	Police Station
1.	383	01.05.2023	406, 420, 180, 506, 120-B IPC	Samalkha Panipat

3. The facts and allegations are being taken from translated version of FIR, which reads as follows:

“To Mr. Superintendent of Police, Panipat Subject: Legal action to be taken in respect of the application against the accused | Anil Saini resident of SainiMohalla, District Panipat 2- Rajesh Kumar son of Shri Pannalal son of Shri Ram Adhar resident of village Mahuli, Tehsil KoravMahuli, District Allahabad, Uttar Pradesh Sir, the applicant makes the following statements: 1. That the applicant Rinku son of ShriRamphal is a resident of New Sanjay Colony, Gohana Road, District Panipat and is a law abiding peace loving citizen. 2. That I and my partners Amit Dhada and Rohit have purchased a piece of land Khewat No. 62 Salam Kite 7 Barkaba 45 Kanal 16 Marla Salam, Khewat No. 695, Salam Kite 3 Rakba 22

Kanal 4 Marla Salam Khewat No. 63/1 Min, Fort No. 149//25. 150//15/1, 6/2, 8/2, 150//8/3, 20/4, 21, 176//5/1 Barkaba 1/2 part of 28 Kanal 11 Marla Bakdar area 14 Kanal-5 Marla 4 Sarasai Total Mutkala area 82 Kanal 5 Marla 4 Sarasai Mauja village Rakseda, Tehsil Samalkha, District Panipat purchased from accused No. 2 in the spirit of Baruve registered agreement No. 99 dated 26.04.2022 at the rate of Rs. 55,00,000/- per acre, for which I paid Rs. 20,00,000/- through cheque No. 000105 HDFC Bank Model Town, Panipat, Rs. 20,00,000/- by cheque no. 000106 HDFC Bank Model Town, Panipat, Rs. 10,00,000/- by cheque no. 000108 HDFC Bank Model Town, Panipat and Rs. 40,00,000/- in cash, total amount of Rs. 1,00,00,000/- one crore was given on the spot and the remaining amount was decided and agreed to be taken at the time of registration i.e. on 26.02.2023. This deal was done by accused no. 1 who claims to be the brother-in-law of accused no. 2. We had paid the above-mentioned advance amount to the accused. 3. That on 26.02.2023, due to it being a Sunday, the registration could not be done and on the next day i.e. 27.02.2023, the applicant and his partner went to Tehsil Samalkha, District Panipat with the remaining amount and the cost of registration to get the registration done and the applicant made several calls to accused no. 2 Rajesh Kumar son of ShriPannaLal, who was the owner of the land, but he did not come to get the registration done on 27.02.2023 and after that on 27.02.2023 itself, at around 5:00 pm, the applicant appeared before the Tehsildar Samalkha through an affidavit and marked his attendance because the applicant and his above-mentioned partner were present in the Tehsil from 9:00 am to 5:00 pm on 27.02.2023 and after that The applicant and his partners also requested the above. accused No. 1 and 2 to get the registration done, but both of them kept giving false assurances and after some time they refused to get the registration done and the applicant and his partners came to know that accused No. 1 and 2 Anil Saini and Rajesh Kumar in collusion with each other got the registry of the above land registered in favour of Mrs. Sonia Bhatia wife of Mr. Jawahar Bhatia resident of Model Town, Panipat by means of Will No. 4305 dated 16.03.2023. 4. That the applicant had given an application No. 478/Dasti dated 17.03.2023 to the Police Station Manager, Police Station Samalkha, District Panipat against the accused but till date no legal action has been taken. 5. That the above accused have got the above mentioned area registered in the name of Sonia Bhatia by hatching a criminal conspiracy to usurp the above mentioned earnest money of the applicant and his partners, whereas the accused have no right to do so and they are bound to get the registration done in the name of the applicant and his partners. In this way the accused are using the earnest money taken from the applicant and his partners for their personal benefit. Therefore, my application should be sent to the CIA staff and my application should be investigated because the above mentioned accused are criminal types and many cases are registered against them and accused no. 1 is still in police custody in another case. Therefore, I request you to please take strict legal action against the accused by registering a case of cheating, fraud and breach of trust against

them. It will be highly grateful to you.”

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:

“That the role of the petitioner is that the petitioner is specifically named as accused in the FIR of present case. He executed full and final payment agreement to sell dated 26.04.2022 of the disputed land with the complainant and obtained a sum of Rs. 1 crores from him (Rs. 60 lacs through cheques and Rs. 40 lacs in cash). However, he delayed to get land transferred in the name of the complainant under one pretext or the other. On enquiry by the complainant, it was revealed that the petitioner had already sold the disputed land to Sonia Bhatia and got the land transferred in her name vide Vasika No. 4305 dated 16.03.2023. In a similar manner, the petitioner had also entered into agreement to sell with one Mayank Singla and obtained Rs. 50 lacs from him and a FIR No. 383/2023 was also registered in that regard.

In this manner, petitioner along with co-accused Anil Saini duped a sum of Rs. 1 Crores from the complainant in this case. The petitioner has confessed to his role in crime and got recovered only Rs. 20,000/- from his share as per his disclosure statement, Annexure R-2.”

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. Per paragraph 14 of the bail petition, the petitioner has been in custody since 22.02.2024. Per the custody certificate dated 03.02.2025, the petitioner's total custody in this FIR is 11 months and 08 days. 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.

8. 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.

9. 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.

10. 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)	

11. This order is subject to the petitioner's complying with the following terms.

12. 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.

13. 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.

14. 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.

15. Any observation made hereinabove is neither an expression of opinion on the case's merits nor shall the trial Court advert to these comments.

16. 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.

17. **Petition allowed** in terms mentioned above. All pending applications, if any, stand disposed of.

(ANOOP CHITKARA)
JUDGE

17.02.2025

Jyoti Sharma

Whether speaking/reasoned: Yes

Whether reportable: No.