



**IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH**

CRM-M-61394-2025 (O&M)
Reserved on : 09.12.2025
Pronounced on : 15.12.2025

Shubham Kumar @Subham

..... Petitioner

VERSUS

State of Punjab

..... Respondent

CORAM: HON'BLE MR. JUSTICE SURYA PARTAP SINGH

Argued by : Mr. Amit Bansal, Advocate for the petitioner.

Mr. I.P.S. Sabharwal, DAG, Punjab.

Mr. Varlin Garg, Advocate for the complainant.

SURYA PARTAP SINGH, J.

1. For the commission of offence punishable under Sections 406, 420 and 120-B of Indian Penal Code, the FIR No.281 dated 30.09.2025 has been lodged in Police Station Dera Bassi, District SAS Nagar, Punjab. The petitioner is being prosecuted for the commission of abovementioned offence and he has been arrested. The petitioner is in custody and, therefore, craving for bail. This is first petition for bail filed by the petitioner, under Section 483 of the Bharatiya Nagarik Suraksha Sanhita, 2023.

2. In nut-shell, the facts emerging from record are that the FIR of this case came into being in response to a complaint submitted by 'Arvind Kansal', hereinafter being referred to as 'complainant' only. In his abovementioned complaint, it was alleged by the complainant that he was

**CRM-M-61394-2025 (O&M)**

2

running a factory in the name and style of 'Jai Durga Agro' in Village Morthikari, Tehsil Zirakpur, District SAS Nagar, Mohali, for manufacturing of animal feed and fodder. According to complainant since 21.09.2021, Vipin Kumar (now deceased) was managing the affairs of the factory and he used to buy and sell goods on behalf of the factory, and receive the money also. As per complainant, the above-named Vipin Kumar was also looking after the accounts of the company. According to complainant, being in-charge of all the money transactions on behalf of company, and in-charge of account books, the above-named Vipin Kumar was successful in siphoning-off a huge amount belonging to the company. The abovesaid amount has been quantified by the complainant to be Rs.80 lacs.

3. The complainant further alleged that a part of the abovementioned proceeds of crime was transferred by Vipin Kumar into the account of Santosh Garg, Hardik, Shubham Kumar @Subham (petitioner herein), Gurnam Singh and Daljit Singh, and that Vipin Kumar has passed away on 26.10.2024. The complainant further alleged that he had approached the petitioner and other family members of deceased and asked for return of money, but they refused.

4. It is the case of the prosecution that in view of abovementioned complaint formal FIR of this case, for the commission of offence punishable under Sections 406, 420 read with Section 120-B IPC, was lodged, and the investigation taken up.

5. Heard.



6. It has been contended on behalf of petitioner that the petitioner has never been an employee of the complainant, and that the petitioner being son-in-law of deceased-Vipin Kumar had received money in his account. According to learned counsel for the petitioner, there is no legally admissible evidence against the petitioner to the effect that he was having any knowledge about the alleged fraud/cheating being played by his father-in-law with the complainant.

7. The learned counsel for the petitioner has also contended that simply because an amount has been paid by the deceased (employee of complainant) into the account of petitioner, any criminality cannot be attached to them, as in usual course such transaction by the father-in-law to the son-in-law can takes place. It has also been contended by learned counsel for the petitioner that despite being innocent, against whom there is no evidence, the petitioner is facing incarceration for being in custody for a period of 02 months, and that nothing is left to be recovered from the possession of petitioner. While contending that the trial is not likely to be concluded in near future, the learned counsel for the petitioner has urged for the benefit of bail for the petitioner.

8. *Per contra*, the learned State Counsel, being assisted by learned counsel for the complainant, has controverted the abovementioned arguments. As per learned State Counsel, the allegations against the petitioner are of hatching conspiracy with the main culprit, who is no more. According to learned State Counsel, the payment through bank transaction by the deceased-Vipin Kumar into the account of petition or, being shady, it



is incumbent upon the petitioner to explain for what purpose the abovementioned money was received by him from his father-in-law. As per learned State Counsel, despite opportunity the petitioner has not disclosed the abovesaid purpose, either during the course of investigation or in the present petition, and therefore, his involvement in the commission of crime is *prima facie* established. The learned State Counsel has contended that since a major part of recovery of proceeds of crime is yet to be ascertained, the petitioner is not entitled for the benefit of bail.

9. The record has been perused carefully.

10. A perusal of record shows that in the present case, following are the relevant factors which are required to be taken into consideration, for arriving at any decision with regard to present petition: -

- i) that the offence is triable by the Court of Judicial Magistrate;
- ii) that maximum punishment prescribed for the abovementioned offence is imprisonment upto 07 years;
- iii) that there is no direct allegations against the petitioner that he was involved in the commission of cheating/fraud played by deceased-Vipin Kumar;
- iv) that except the disclosure statement suffered by the petitioner, there is no legally admissible evidence against the petitioner, and the abovementioned disclosure/confessional statement of the petitioner was recorded, when he was already in police custody. Thus, there is a question mark with regard to credibility and admissibility in evidence of the abovementioned disclosure statement;



- v) that the only allegations against the petitioner are with regard to receipt of money from his father-in-law (deceased-Vipin Kumar) against whom there are allegations of cheating being employee of complainant;
- vi) that the petitioner is already in custody for a period of 02 months;
- vii) that nothing is left to be recovered from the possession of petitioner;
- viii) that as per custody certificate, the petitioner has no criminal antecedents;
- ix) that the trial is not likely to be concluded in near future;
- x) that detention of petitioner in judicial lockup is not likely to serve any purpose;
- xi) that there is nothing on record to show that if released on bail, the petitioner may tamper with the evidence or influence the witnesses; and
- xii) that there is nothing on record to show that if released on bail, the petitioner will not participate/cooperate in the trial.

11. In the present case, the principles of law laid down by the Hon'ble Supreme Court in the case of **“Dataram versus State of Uttar Pradesh and another”, 2018(3) SCC 22**, are also relevant, wherein it has been observed that “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. 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”.

12. The principles laid down by the Hon’ble the Supreme Court of India in the case of **‘Satender Kumar Antil Vs. Central Bureau of Investigation and Another’**, (2022) 10 SCC 51, are also relevant in this case. In the abovementioned case, it has been observed that “the rate of conviction in criminal cases in India is abysmally low. It appears to us that this factor weighs on the mind of the Court while deciding the bail applications in a negative sense. Courts tend to think that the possibility of a conviction being nearer to rarity, bail applications will have to be decided strictly, contrary to legal principles. We cannot mix up consideration of a bail application, which is not punitive in nature with that of a possible adjudication by way of trial. On the contrary, an ultimate acquittal with continued custody would be a case of grave injustice”.



13. Recently, in the case of ‘**Tapas Kumar Palit Vs. State of Chhattisgarh**’, **2025 SCC Online SC 322**, the Hon’ble Supreme Court of India has observed that “if an accused is to get a final verdict after incarceration of six to seven years in jail as an undertrial prisoner, then, definitely, it could be said that his right to have a speedy trial under Article 21 of the Constitution has been infringed”. It has also been observed by the Hon’ble Supreme Court of India in the abovementioned case that “delays are bad for the accused and extremely bad for the victims, for Indian society and for the credibility of our justice system, which is valued. Judges are the masters of their Courtrooms and the Criminal Procedure Code provides many tools for the Judges to use in order to ensure that cases proceed efficiently”.

14. 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 an undertrial prisoner, as mandated by Hon’ble Apex court in “***Balwinder Singh versus State of Punjab and Another***”, **2024 SCC Online SC 4354**.

15. If the cumulative effect of all the abovementioned factors, involved in the instant case, is taken into consideration, it leads to a conclusion that the petitioner is entitled for the benefit of bail, and that the present petition deserves to be allowed.

16. Accordingly, without commenting anything on the merits of the case, the present petition is hereby ***allowed***. The petitioner is hereby ordered



to be released on bail on furnishing personal bond and surety bond(s) to the satisfaction of learned trial Court, subject to the following conditions:-

- (i) that the petitioner shall not directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of the case, so as to dissuade him to disclose such facts to the Court or to any other authority.
- (ii) that the petitioner shall at the time of execution of bond, furnish the address to the Court concerned and shall notify the change in address to the trial Court, till the final decision of the trial; and
- (iii) that the petitioner shall not leave India without prior permission of learned trial Court.

17. In case, the petitioner violates any of the conditions mentioned above, it shall be viewed seriously and the concession of bail granted to him shall be liable to be cancelled and the prosecution shall be at liberty to move an application in that regard.

(SURYA PARTAP SINGH)
JUDGE

15.12.2025

Gaurav Thakur

Whether speaking / reasoned
Whether Reportable

Yes/No
Yes/No