

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-63872-2024
Reserved on: 17.02.2025
Pronounced on: 20.02.2025

Hardeep ...Petitioner

Versus

State of Haryana ...Respondent

CORAM: HON'BLE MR. JUSTICE ANOOP CHITKARA

Present: Mr. Saurabh Dalal, Advocate
for the petitioner.

Mr. Aashish Bishnoi, DAG, Haryana.

ANOOP CHITKARA, J.

FIR No.	Dated	Police Station	Sections
422	28.11.2024	Sampla, Rohtak	316(2)/318(4)/319/61(2) of BNS

1. 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.

2. Per paragraph 11 of the bail application and 6 of the status report dated 14.02.2025 filed by the State, the accused has the following criminal antecedents:

Sr. No.	FIR No.	Date	Offenses	Police Station
1	248	15.07.2011	394/397/411/34 IPC	Nangloi, Delhi
2	390	12.11.2008	379 IPC	Bhadra, Rajasthan
3	440	17.11.2020	148/149/323/307/427/506 IPC and 25 of Arms Act	-
4.	237	16.06.2011	148, 149, 323, 307, 506 IPC and 25 of Arms Act	Sampla
5.	102	26.02.2017	148, 149, 395, 397, 427, 436, 506, 188 IPC	Urban Estate Rohtak

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

“3. That the facts of the case are that the complaint bearing no.126-130/RC dated 11.11.2024 (no.1554- Email dated 14.11.2024) was received from the office of Superintendent of Police, Rohtak and same was referred to Police Station Sampla to the effect that Manjeet S/o Kuldeep Singh moved a complaint to get stopped the mutation of registered sale deed no. 2127 dated 25.09.2024. Keeping in view the complaint of Manjeet, the said

sale deed was investigated and during investigation, the mother of vendor Yash namely Smt. Sonu Devi and grandfather Shri Narender were called to Tehsil office Sampla on 08.11.2024 and document no. 2127 dated 25.09.2024 was shown to them. After showing the document, document are of Yash only. They said that the witness and the vendee are not known to them. On 09.11.2024, Yash was called to the Tehsil office and sale deed no. 2127 was shown to him on which he said that the photo of the seller in the sale deed is not his photo but his Aadhar card and PAN card have been used and he knows the vendee Kuldeep Singh S/o Diwan Singh as he had earlier sold his land to Suman W/o Kuldeep Singh. On investigation, it was found that in sale deed bearing no. 241 dated 28.04.2023, the vendor Yash has sold his land in the name of Suman W/o Kuldeep. At the time, that sale deed was executed with his consent. Kuldeep Singh is aware of his identity and knows him well and he has not made any agreement with Manjeet S/o Kuldeep Singh and in the agreement presented by Manjeet, in his place there is a photo of Paras S/o Surendra Sindhu alias Pichu. The person wearing a cap in the same photo is Hardeep R/o Khedi Sadh. Apart from this, Shri Kuldeep S/o Diwan Singh and Manjeet S/o Kuldeep Singh were also called to the office for investigation of the above case and their statements were recorded. Hardeep S/o Ajit and Paras S/o Surendra refused to come to the office for investigation. Surendra S/o Rampal appeared in the place of the vendor in the said sale deed. Therefore, as per investigation, it is found that in sale deed no.2127 dated 25.09.2024, some other person has been impersonated in place of Yash S/o Arvind and the sale deed has been registered fraudulently. In the agreement presented by Manjeet, Paras has been presented in place of Yash by Hardeep S/o Ajit. Therefore, mutation no. 5064 of the said sale deed has been rejected. Hence, legal action be taken against the unknown person presented in place of Yash, the vendor Kuldeep, Tushar S/o Surendra Singh and Surendra Singh S/o Rampat. On the basis of this complaint a case vide FIR no. 422 dated 28.11.2024 u/s 316(2), 318(4), 319, 61(2) of Bhartiya Nyay Sanhita was registered at Police Station-2 Sampla, Rohtak.”

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:

“5. That the specific role of the petitioner is that he hatched a criminal conspiracy with his accomplices for perpetrating the offence. He was actively involved in inducing the purchaser for purchasing the land in dispute as he was eager to receive his profits out of the sale consideration. Regarding this land in dispute, two agreements for sale were scribed and executed by the parties. The petitioner was very much present at the time of execution of the agreement for sale and thereafter, at the time of registration and execution of the sale deed, it came to the light that Rs. 1,00,000/- has been credited in the account at present

accused and cash Rs. 5,00,000/- was credited in the account of impersonator Yash. The recovery of said amount is to be effected from the present petitioner alongwith recovery of original documents.”

REASONING:

7. 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.
8. 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.
9. The investigation indicates that the petitioner is not the main accused, so the petitioner's bail shall not be treated as a precedent for granting bail to the other co-accused with a higher role.
10. 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 Ilqa 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.
11. 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) | |
12. This order is subject to the petitioner’s complying with the following terms.
13. 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.

14. 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.

15. 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.

16. 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.

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

18. 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.

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

(ANOOP CHITKARA)
JUDGE

20.02.2025

Jyoti Sharma

Whether speaking/reasoned: Yes

Whether reportable: No.