CRM-M-63962-2024

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-63962-2024
Reserved on: 06.03.2025
Pronounced on: 25.03.2025

Vinod Kumar ...Petitioner

Versus

State of Haryana …Respondent

CORAM: HON'BLE MR. JUSTICE ANOOP CHITKARA

Present: Mr. Sehaj Sandhawalia, Advocate
for the petitioner.

Ms. Harpreet Kaur, AAG, Haryana.

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ANOOP CHITKARA, J.

| FIR No. | Dated | Police Station | Sections |
|---|---|---|---|
| 217 | 06.04.2018 | Sector 31, District Faridabad | 406, 420 r/w 120-B IPC and and Section 3 of Haryana Protection of Interest of Depositors in the Financial Establishment Act 2013 (467, 468, 471, 204 IPC (added later) |

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. As per paragraph 14 of the status report, the accused has the following criminal antecedents:

| Sr. No. | FIR No. | Date | Offenses | Police Station |
|---|---|---|---|---|
| 1 | 111 | 2018 | 406, 420, 120-B, 204 IPC and 3 of Haryana Protection of Interest of Depositors in financial Establishment Act 2013 | Sector 31, Faridabad |
| 2 | 114 | 2018 | 406, 420, 120-B, 204 IPC and 3 of Haryana Protection of Interest of Depositors in financial Establishment Act 2013 | Sector 31, Faridabad |
| 3 | 117 | 2018 | 406, 420,467, 468, 471, 120- | Sector 31, |

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|---|---|---|---|---|
| | | | B, 204 IPC and 3 of Haryana Protection of Interest of Depositors in financial Establishment Act 2013 | Faridabad |
| 4 | 121 | 2018 | 406, 420, 120-B IPC and 3 of Haryana Protection of Interest of Depositors in financial Establishment Act 2013 | Sector 31, Faridabad |
| 5 | 122 | 2018 | 406, 420, 120-B IPC and 3 of Haryana Protection of Interest of Depositors in financial Establishment Act 2013 | Sector 31, Faridabad |
| 6 | 123 | 2018 | 406, 420, 120-B, 506 IPC and 3 of Haryana Protection of Interest of Depositors in financial Establishment Act 2013 | Sector 31, Faridabad |
| 7 | 205 | 2018 | 406, 420, 120-B, 204 IPC and 3 of Haryana Protection of Interest of Depositors in financial Establishment Act 2013 | Sector 31, Faridabad |
| 8 | 206 | 2018 | 406, 420, 120-B, 204 IPC and 3 of Haryana Protection of Interest of Depositors in financial Establishment Act 2013 | Sector 31, Faridabad |
| 9 | 213 | 2018 | 406, 420, 120-B, 204 IPC and 3 of Haryana Protection of Interest of Depositors in financial Establishment Act 2013 | Sector 31, Faridabad |
| 10 | 214 | 2018 | 406, 420, 120-B, 467, 468, 471, 204 IPC and 3 of Haryana Protection of Interest of Depositors in financial Establishment Act 2013 | Sector 31, Faridabad |
| 11 | 215 | 2018 | 406, 420, 120-B, 467, 468, 471, 204 IPC and 3 of Haryana Protection of Interest of Depositors in financial Establishment Act 2013 | Sector 31, Faridabad |
| 12 | 216 | 2018 | 406, 420, 467, 468, 471,120-B, 204 IPC and 3 of Haryana Protection of Interest of Depositors in financial Establishment Act 2013 | Sector 31, Faridabad |
| 13 | 489 | 10.08.2018 | 406, 420, 120-B IPC and 3 of Haryana Protection of Interest of Depositors in the Financial Establishment Act 2013 | Sector 31, Faridabad |
| 14 | 231 | 2018 | 406, 420, 120-B, 467, 468, 471, 204 IPC and 3 of Haryana Protection of | Sector 31, Faridabad |

| | | | | |
|---|---|---|---|---|
| | | | Interest of Depositors in financial Establishment Act 2013 | |
| 15 | 273 | 26.04.2018 | 406, 420, 120-B IPC and 3 of Haryana Protection of Interest of Depositors in the Financial Establishment Act 2013 (Section 467, 468 added later on) | Sector 31, Faridabad |
| 16 | 260 | 2018 | 406, 420, 120-B, 467, 468, 471, 204 IPC and 3 of Haryana Protection of Interest of Depositors in financial Establishment Act 2013 | Sector 31, Faridabad |
| 17 | 238 | 2018 | 406, 420, 120-B, 467, 468, 471, 204 IPC and 3 of Haryana Protection of Interest of Depositors in financial Establishment Act 2013 | Sector 31, Faridabad |
| 18 | 542 | 2018 | 406, 420, 120-B, 467, 468, 471, 204 IPC and 3 of Haryana Protection of Interest of Depositors in financial Establishment Act 2013 | Sector 31, Faridabad |
| 19 | 43 | 2019 | 406, 420, 120-B, 467, 468, 471, 204 IPC and 3 of Haryana Protection of Interest of Depositors in financial Establishment Act 2013 | Sector 31, Faridabad |
| 20 | 153 | 2019 | 406, 420, 120-B, 467, 468, 471, 204 IPC and 3 of Haryana Protection of Interest of Depositors in financial Establishment Act 2013 | Sector 31, Faridabad |
| 21 | 200 | 2019 | 406, 420, 120-B IPC and 3 of Haryana Protection of Interest of Depositors in financial Establishment Act 2013 | Sector 31, Faridabad |
| 22 | 51 | 2019 | 406, 420, 120-B, 467, 468, 471, 204 IPC and 3 of Haryana Protection of Interest of Depositors in financial Establishment Act 2013 | Sector 31, Faridabad |
| 23 | 542 | 2019 | 406, 420, 120-B, 467, 468, 471, 204 IPC and 3 of Haryana Protection of Interest of Depositors in financial Establishment Act 2013 | Sector 31, Faridabad |

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

> *"2. That the brief facts of the present case are that a complaint was submitted by Devender Kumar against Anil Jindal - Chairman SRS Group, Prateek Jindal, Vinod Garg @ Mama, Bishan Bansal, Nanak Tayal, P.K. Garg and other Directors and employees of SRS Group, alleging therein that he knew Vinod Garg who is famous by the name of 'Mama', He induced him (complainant) by saying that Anil Jindal, Chairman of M/s SRS Group is constructing plots and flats and that he (Anil Jindal) is his nephew and he (complainant) can invest money in the said project. He allured that if the complainant invested the amount in the aforesaid company, then he would give plot/flat on cheaper rates and their amount would be multiplied three times and till then the company would give interest @ 1.5% per month. He further assured the complainant that he can take the said amount at any time or he can even reinvest the same. Vinod Garg took the complainant to the office of SRS Group where also similar allurement was made. Due to the said inducement, the complainant invested an amount of Rs. 6.5 lakh till the end of the year 2015. Later on, he came to know that the accused Vinod, Anil Jindal and their accomplices had cheated several innocent persons on the pretext of making investment in their project. Thereafter, all the cheated persons made protest against the aforesaid accused persons and then the accused Anil Jindal, Parteek Jindal, Bishan Bansal, Nanak Tayal and other accused came at the spot and they promised to return their money. They took them to their office and issued cheques of their company M/s SRS Buildmart Pvt. Ltd. to the cheated persons. They had issued a cheque no. 094047 dated 09.11.2019 of Rs. 9,49,000/- which was dishonoured. The accused persons had made one of their bodyguards namely Devender Adhana as full time Director of the company and got signed the said cheques, and later on removed Nanak Tayal and Bishan Bansal from the Board of Directors and changed the name of the company. In this way, the accused persons have cheated and defrauded the complainant and various other persons. Prayer was made for taking legal action. Thereupon, FIR No. 217 dated 06.04.2018 u/s 406, 420, 467, 468, 471, 120-B, 204 IPC and Section 3 Haryana Protection of Interest of Depositors in financial Establishments Act 2013 registered at P.S. Sector-31, Faridabad."*

4. The petitioner's counsel submits that petitioner was not even an employee or director of the company "SRS Buildmart." which as per allegations has issued the cheques to defraud the complainant. Petitioner seeks bail on parity with one Bhagwan Dass Gupta who had already been granted bail by this Court. 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:

> *"That the role of the petitioner Vinod Kumar in the present case is that the present complainant Devender Kumar and 20 other complainants have invested a total amount of Rs. 1,91,1,475 in different schemes in SRS Ltd. company. In this case, the complaint was also submitted by Hi Fone Prabir Ghosh son of late Shri Bijendra Nath. He had invested Rs.34.50 lakhs directly in the SRS Ltd. company through cheque. The petitioner and other Directors of the said company made the complainants to invest money in M/s SRS Limited and issued receipts against the invested amount and the accused company SRS Limited issued maturity date repayment cheques with 12.50% interest to the complainants by putting fake warrant number on them. Till date the complainants have neither received the principal amount nor received any profit. Accused Anil Jindal is CMD, Raju Bansal, Vinod Gupta (petitioner) and Sunil Jindal were whole time directors in the said company. Accused Bhagwan Das was the CFO of the company who issued FDR in favour of the complainants by signing it. There are 85 cases registered against SRS Group including this case. The said company M/s SRS Ltd. is the main beneficiary company of SRS Group."*

REASONING:

7. The petitioner has complied with the order passed by this Court and had declared his assets. As per status report, petitioner was whole time director of the company for the period from 25.02.2002 to 23.06.2017, not the promoter of the company. FIR was registered in the year 2018, investigator paid no heed to arrest him during this long period. However he was arrested in another case which makes him entitled for bail.

8. 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.

9. Given the above, the penal provisions invoked coupled with the primafacie 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.

10. 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.

11. 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 Ilaqa 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.

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 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.

15. 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.

16. 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.

17. 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.

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

19. 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.

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

(ANOOP CHITKARA)
JUDGE

25.03.2025
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Whether speaking/reasoned: Yes
Whether reportable: No.