

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-65648-2024
Reserved on: 10.03.2025
Pronounced on: 19.03.2025

Niranjan ...Petitioner

Versus

State of Haryana and others ...Respondents

CORAM: HON'BLE MR. JUSTICE ANOOP CHITKARA

Present: Ms. Aakriti Mittal, Advocate,
for the petitioner.

Ms. Harpreet Kaur, AAG, Haryana.

ANOOP CHITKARA, J.

FIR No.	Dated	Police Station	Sections
176	06.08.2024	Unkalan, Haryana	406 and 420 IPC

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. In paragraph 23 of the bail petition, the accused declares that he has no criminal antecedents.
3. The petitioner was granted interim bail vide order dated 01.01.2025, which is continuing till date.
4. The facts and allegations are taken from the translated copy of the FIR attached to the bail petition, which reads as follows:

“To, Mr. D.G.P. Chandigarh Subject to take action against police employee Subhash. Regarding. Sir, it is humbly requested that I had given an application on C.M Window on 29.01.2024. Whose number is CMOF-I-/N/2024/010@33. Even before this I had given an application in P.S. Uklana against Niranjan son of Satpal. He fraudulently took a loan in my name and kept the money with himself. On that application, Subhash police personnel and statements of witnesses were taken in which Niranjan had said that I had withdrawn the money and I made a mistake, I will deposit your money within two days. I will clear your loan,

but the police employee filed that application in the office saying that we do not know about it. We told Subhash many times to get our loan cleared or take action against him. But he did nothing by being cunning. Then I filed another application on C.M. Window on 29.01.2024. Now that application is with Subhash. He harasses us saying that you should settle the matter and nothing can be done to you. And he does not call the accused Niranjana and on the contrary he harasses us mentally. This police personnel is in connivance with the accused Niranjana. Kindly take departmental legal action against this policeman Subhash and get me justice and an FIR should be registered against the accused.”

5. The petitioner's counsel submits that the petitioner has been falsely implicated in the case. The FIR, prima facie, on a plain reading does not disclose any offense or an illegal act having been committed by the petitioner. The Complaint is about the alleged transactions of year 2022 whereas the present complaint is filed in 2024. She submits that the petitioner closed his CSC centre two years back. The complaint is filed just to harass the petitioner and to grab some money from the petitioner and the instant FIR has been registered after the complainant filed an application in CM window against the investigating Officer. Upon thorough enquiry, the investigating Officer found that the application was devoid of any substance, meritless, and without factual basis and the same was filed by police. She further submits that the petitioner never refused to join the investigation. Even though the petitioner vide representation requested the SHO to allow him to join the investigation. Furthermore, vide order dated 01.01.2025 passed by this Court, he was directed to join the investigation on 07.01.2025. The Petitioner duly appeared on 07.01.2025 at 10:45 am, however the investigating officer asked the petitioner to first deposit the amount of which recovery is necessary, then he will be allowed to give a statement. Subsequently, the petitioner was constrained to approach SP vide letter dated 07.02.2025 and thus after two days, the investigating officer recorded the statement of the petitioner. Even otherwise, the Investigating officer submitted his reply wherein the Investigating officer never raised the issue that the petitioner did not cooperate in investigation and there is no complaint filed against the petitioner except the instant one. The complainant in connivance with the high profile relative has been harassing the petitioner and not allowing him to do the job and spreading wrong rumors in Uklana against the petitioner. She submits that the petitioner never denied to participate in the investigation or tried to abscond.

6. The petitioner's counsel prays for bail by imposing any stringent conditions and contends that pre-trial incarceration would cause an irreversible injustice to the petitioner and his family.

7. The State's counsel opposes bail and refers to the status report.

8. It would be appropriate to refer to the following portions of the status report, which read as follows:

“9. That as far as the role of the petitioner/accused, it is submitted that allegations levelled against the present petitioner/accused are that petitioner/accused Niranjan, in the name of getting a loan for complainant Sapna, with the intention of cheating her got the thumb impression of complainant Sapna on the biometric machine and had withdrawn total amount of Rs. 40,000/- on different dates. Name of the present petitioner/accused is mentioned in the FIR. That petitioner/accused not cooperated with the instigating agency. That the custodial interrogation of the petitioner/accused is necessary for proper and effective investigation.”

REASONING:

9. Given the amount involved and nature of offence, no ground is made out to deny bail to the petitioner. 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.

10. The petitioner was granted interim protection, and during the interregnum, there is no allegation that he had intimidated the witnesses, hampered the investigation, or, despite being called to join the investigation, did not appear before the investigator. Given the above, there would be no justification to discontinue the interim protection, which is made absolute subject to the petitioner complying with the terms of the bail order and the following additional conditions.

11. 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.

12. 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.

13. 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)	

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

15. 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.

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

17. 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.

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

(ANOOP CHITKARA)
JUDGE

19.03.2025
Jyoti-II

Whether speaking/reasoned: Yes
Whether reportable: No.