



IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

234

CRM-M-7098-2026
Date of decision: 20.04.2026

SUKHWINDER KUMAR

....Petitioner

Versus

STATE OF PUNJAB

....Respondent

CORAM:- HON'BLE MS. JUSTICE RUPINDERJIT CHAHAL

Present:- Mr. Naveen Batra, Advocate for the petitioner.

Ms. Amrit Kaur Mahir, AAG, Punjab.

RUPINDERJIT CHAHAL, J. (ORAL)

1. Prayer in the instant petition filed under Section 483 of the Bharatiya Nagarik Suraksha Sanhita, 2023 is for grant of regular bail to the petitioner in case FIR No.109 dated 16.05.2025 registered under Sections 143, 318(4), 61(2) of BNS, 2023 and Section 13 of Punjab Travel Professionals (Regulation) Act, 2014 (Sections 249 and 253 of BNS, 2023 added later on) at Police Station Model Town, District Hoshiarpur, Punjab.

2. Brief facts of the prosecution case are that the petitioner, in connivance with the other co-accused, allured the complainant on the pretext of sending his son to Australia, but instead sent him to Iran, and duped the complainant of a sum of ₹18,00,000/-. Hence, the present FIR.

3. Learned counsel for the petitioner submits that the petitioner has been falsely implicated in the present case and he has no concern with the offence. He further submits that no specific role has been attributed to



the petitioner and all the allegations in the FIR are directed against the co-accused namely Dheeraj Atwal and Kamal Atwal, to whom the alleged payments were made. He contends that the petitioner is neither a beneficiary of the alleged transaction nor is connected with the alleged offence in any manner. He further submits that the petitioner is a handicapped person suffering from 60% permanent disability of the lower limb and is unable to walk without the assistance of a wheelchair. It is argued that despite his physical condition, the petitioner has been falsely roped in merely on account of some other criminal cases allegedly registered against him. He contends that the petitioner is in custody since 08.07.2025. He further submits that investigation is complete; challan stands presented but the charges are yet to be framed. Hence, the trial will take a long time to conclude and no useful purpose would be served by keeping him behind bars. Therefore, it is urged that the petition deserves to be allowed.

4. Learned State counsel has already filed the status report and has filed the custody certificate today which is taken on record and while referring to the same, learned State counsel has vehemently opposed the prayer for grant of bail by submitting that the offence committed by the petitioner is serious in nature. She further submits that the petitioner is involved in multiple other FIRs, meaning thereby he is a habitual offender.

5. Having heard learned counsel for the parties at length and after perusing the record of the case, it is evident that the petitioner is in custody for the last more than 09 months; investigation is complete; challan stands presented, charges are yet to be framed; and the fact that trial may take a long time to conclude, no useful purpose would be served by detaining the



petitioner in further custody. His continued detention without the prospect of the trial being concluded in the near future would be violative of his rights under Article 21 of the Constitution of India.

6. Reliance is placed upon a judgment in the case of *Dataram Singh vs. State of Uttar Pradesh & Anr. 2018(2) R.C.R. (Criminal) 131*, wherein Hon'ble Apex Court has held that keeping somebody behind the bars, till his guilt is proved, for an indefinite period amounts to infringement of her right to life and liberty, as enshrined under Article 21 of Constitution of India and is against the principle "*bail is a rule*" and "*jail is an exception*".

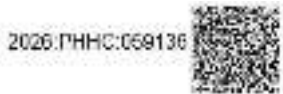
7. As regards the submission of learned State counsel that petitioner is involved in other/one more criminal case(s), reference is placed upon the judgment of the Hon'ble Supreme Court in *Maulana Mohd. Amir Rashadi Vs. State of U.P. and another, 2012 (2) SCC 382*; in which, it is held that the facts and circumstances of the present case are to be seen while deciding a bail application and the bail application of the petitioner cannot be rejected solely on the ground that the petitioner is involved in other/another case(s). The relevant portion of the said judgment is reproduced herein-below:-

"As observed by the High Court, merely on the basis of criminal antecedents, the claim of the second respondent cannot be rejected. In other words, it is the duty of the Court to find out the role of the accused in the case in which he has been charged and other circumstances such as possibility of fleeing away from the jurisdiction of the Court etc."

8. In view of the above, the present petition is allowed and the petitioner is ordered to be released on bail on his furnishing bail

bonds/surety bonds to the satisfaction of the learned trial Court/Duty

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Magistrate/CJM concerned. It is clarified that nothing stated herein shall be construed as an expression of opinion on the merits of the case.

20.04.2026
Mohit Bishnoi

(RUPINDERJIT CHAHAL)
JUDGE

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| i) | Whether speaking/reasoned? | Yes/No |
| ii) | Whether reportable? | Yes/No |