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

CRM-M-17304-2026 (O&M)

Date of Decision: 07.04.2026

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Kulwinder Singh

.....Petitioner.

Versus

State of Punjab

.....Respondent.

CORAM: HON'BLE MR. JUSTICE SUMEET GOEL

Present:- Mr. Sarfaraz Singh Gill, Advocate
for the petitioner.

Mr. Gaurav Gurcharan S. Rai, Sr. DAG, Punjab.

SUMEET GOEL, J.(Oral)

Present petition has been filed under Section 483 of Bharatiya Nagarik Suraksha Sanhita, 2023 (under Section 439 Cr.P.C.) for grant of regular bail to the petitioner in case bearing FIR No.104 dated 29.05.2021 registered for the offences punishable under Sections 420 and 120-B of IPC, 1860 [Sections 318(2) and 61(2) of BNS], at Police Station Phase-1 Mohali, District SAS Nagar.

2. The gravamen of allegations against the petitioner are that he along-with co-accused has cheated the complainant, namely, Harjit Kaur Saini for a sum of Rs.1,18,00,000/- by preparing two false agreements to sell.

3. Learned counsel for the petitioner has submitted that the

petitioner is in custody since 11.02.2026. Learned counsel has further submitted that the FIR in question essentially has civil overtones. Learned counsel has submitted that the fulcrum of the FIR in question is an agreement to sell of the year 2012 whereas the FIR in question has been got registered in the year 2021. Learned counsel has further submitted that assuming *arguendo*, the prosecution version is taken to be correct, the role ascribed to the petitioner is that of an attesting witness on an agreement to sell. Learned counsel has further submitted that the petitioner is a man aged 55 years with no criminal antecedents. Thus, regular bail is prayed for.

4. Learned State counsel has opposed the present petition by arguing that the allegations raised against the petitioner are serious in nature and, thus, he does not deserve the concession of the regular bail. Learned State counsel seeks to place on record custody certificate dated 04.04.2026 in the Court, which is taken on record.

5. I have heard counsel for the rival parties and have gone through the available records of the case.

6. Before delving into the rival contentions, it would be apposite to refer herein to a judgment of the Hon'ble Supreme Court titled as ***Gudikanti Narasimhulu and others vs. Public Prosecutor, High Court of Andhra Pradesh AIR 1978 SUPREME COURT 429***, relevant whereof reads as under:

“10. The significance and sweep of Article 21 make the deprivation of liberty a matter of grave concern and permissible only when the law authorising it is reasonable, even-handed and geared to the goals of community good and State necessity spelt out in Article 19. Indeed, the considerations I have set out as criteria are germane to the constitutional proposition I have deduced. Reasonableness postulates intelligent care and predicates that deprivation of freedom- by refusal of

bail is not for punitive purpose but for the bi-focal interests of justice-to the individual involved and society affected.

11. *We must weigh the contrary factors to answer the test of reasonableness, subject to the need for securing the presence, of the bail applicant. It makes sense to assume that a man on bail has a better chance to prepare or present his case than one remanded in custody. And if public justice is to be promoted, mechanical detention should be close to ours, the function of bail is limited, 'community roots' of the, applicant are stressed and, after the Vera Foundation's Manhattan Bail Project, monetary suretyship is losing ground. The considerable public expense in keeping in custody where no danger of disappearance or disturbance can arise, is not a negligible consideration. Equally important is the deplorable condition, verging on. the inhuman, of our sub-jails, that the unrewarding cruelty and expensive custody of avoidable incarceration makes refusal of bail unreasonable and a Policy favouring release justly sensible.*

12. *A few other weighty factors deserve reference. All deprivation of liberty is validated by social defence and individual correction along an anti-criminal direction. Public justice is central to the whole scheme of bail law. Fleeing justice must be forbidden but punitive harshness should be minimised. Restorative devices to redeem the man, even, through community service, meditative drill, study classes or other resources should be innovated, and playing foul with public peace by tampering with evidence, intimidating witnesses or committing offence while on judicially sanctioned 'free enterprise,' should be provided against. No seeker of justice shall play confidence tricks on the court or community. Thus, conditions may be hung around bail orders, not to cripple but to protect. Such is the holistic jurisdiction and humanistic orientation invoked by the judicial discretion correlated to the values of our constitution."*

6.1. Further, the Hon'ble Supreme Court in a judgment titled as ***Gurcharan Singh vs. State (UT of Delhi) 1978 (1) SCC 118***, has held as under:-

*"Where the granting of bail lies within the discretion of the **court**, the granting or denial is regulated, to a large extent, by the facts and circumstances of each particular case. Since the object of the detention or imprisonment of the accused is to secure his appearance and submission to the jurisdiction and the judgment of the **court**, the primary inquiry is whether a recognizance or bond would effect that end."*

6.2. Furthermore, the Hon'ble Supreme Court in a judgment titled as ***Sanjay Chandra vs. CBI (2012) 1 SCC 40***, has held as under:

"21. In bail applications, generally, it has been laid down from the earliest times that the object of bail is to secure the appearance of the accused person at his trial by reasonable amount of bail. The object of bail is neither punitive nor preventative. Deprivation of liberty must be considered a punishment, unless it can be required to ensure that an accused person will stand his trial when called upon. The courts owe more than verbal respect to the principle that punishment begins after

conviction, and that every man is deemed to be innocent until duly tried and duly found guilty.

22. From the earliest times, it was appreciated that detention in custody pending completion of trial could be a cause of great hardship. From time to time, necessity demands that some un-convicted persons should be held in custody pending trial to secure their attendance at the trial but in such cases, "necessity" is the operative test. In this country, it would be quite contrary to the concept of personal liberty enshrined in the Constitution that any person should be punished in respect of any matter, upon which, he has not been convicted or that in any circumstances, he should be deprived of his liberty upon only the belief that he will tamper with the witnesses if left at liberty, save in the most extraordinary circumstances."

6.3. The petitioner was arrested on 11.02.2026 and is stated to be in continuous custody since then. Culmination of investigation as also trial emanating therefrom, in case occasion so arises, indubitably will take long time. It is not in dispute before this Court that the petitioner is a man aged 55 years and has already suffered incarceration for a period of 01 month and 23 days & is not shown to be involved in any other case/FIR.

6.4. The rival contentions raised by learned counsel give rise to debatable issues which shall be ratiocinated upon during the course of trial. This Court does not deem it appropriate to delve deep into these rival contentions, at this stage, lest it may prejudice the trial. Nothing tangible has been brought forward to indicate the likelihood of the petitioner absconding from the process of justice or interfering with the prosecution evidence.

Suffice to say, further detention of the petitioner as an undertrial is not warranted in the facts and circumstances of the case.

7. In view of above, the present petition is allowed. Petitioner is ordered to be released on regular bail on his furnishing bail/surety bonds to the satisfaction of the Ld. concerned trial Court/Duty Magistrate. However, in addition to conditions that may be imposed by the concerned trial

Court/Duty Magistrate, the petitioner shall remain bound by the following conditions:

- (i) The petitioner shall not mis-use the liberty granted.
- (ii) The petitioner shall not tamper with any evidence, oral or documentary, during the trial.
- (iii) The petitioner shall not absent himself on any date before the trial.
- (iv) The petitioner shall not commit any offence while on bail.
- (v) The petitioner shall deposit his passport, if any, with the trial Court.
- (vi) The petitioner shall give his cellphone number to the Investigating Officer/SHO of concerned Police Station and shall not change his cell-phone number without prior permission of the trial Court/Illaq Magistrate.
- (vii) The petitioner shall not in any manner try to delay the trial.

8. In case of breach of any of the aforesaid conditions and those which may be imposed by concerned trial Court/Duty Magistrate as directed hereinabove or upon showing any other sufficient cause, the State/complainant shall be at liberty to move cancellation of bail of the petitioner.

9. Ordered accordingly.

10. Nothing said hereinabove shall be construed as an expression of opinion on the merits of the case.

11. Pending misc. application(s), if any, also stand(s) disposed of.

April 07, 2026
Yag Dutt

(SUMEET GOEL)
JUDGE

Whether speaking/reasoned: Yes/No
Whether Reportable: Yes/No