



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

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CRM-M-58181-2025

Date of decision: 10.02.2026

Mohd. Shaban @ Salman

...Petitioner

Versus

State of Haryana

...Respondent

CORAM: HON'BLE MS. JUSTICE AARADHNA SAWHNEY

Present : Mr. Surinder Dagar, Advocate for the petitioner.

Mr. K.L. Saini, Sr. DAG, Haryana.

AARADHNA SAWHNEY, J.(ORAL)

1. By virtue of the present petition under Section 483 BNSS, petitioner, an accused in case bearing FIR No.372 dated 03.06.2025 registered against him, u/s 318(4) of BNS (Sections 61(2) of BNS added later on) at Police Station Sector-10, Gurugram District Gurugram, has prayed for grant of bail.

2. Relevant facts as emerging from documents on record be noticed hereinbelow:-

Ankush Yadav, son of Prem Singh, resident of B-1301, ROF Amalius, Sector-92, Gurugram set the criminal law in motion by filing a complaint pointing therein that one Saurabh Yadav (co-accused) is living in their society i.e. CET at E-1305, ROF Amaltas, Sector-92, Gurugram since February 2025. Saurabh often used to issue advertisements on 'Whatsapp' for sale of flats. Details of 3 BHK flats were sent to him (C) by aforesaid Saurabh, who also offered to facilitate the sale deed of a flat in ROF Atulyas, Sector-93, Gurugram. On insistence of Saurabh, initially Rs.50,000/- was transferred in his account through 'PhonePe'. Thereafter, payments of Rs.81,000/- and Rs.1,31,000/- were also made. Saurabh also told that the flat would be ready in 1-2 years after which the possession would



be handed over. On 28.04.2025, Saurabh telephonically intimated that there is another good flat in Signature Proxima, Sector-89, Gurugram which is ready to move. It was also assured that he (Saurabh) would get the deal finalized within 20 days. On 29.04.2025, Rs.2,43,200/- were taken by Saurabh. In all, complainant alleges to have paid Rs.7,13,000/- to Saurabh from time to time, who has also confirmed the payment by sending messages on 'Whatsapp'. Complainant alleged that Saurabh made him (C) talk to a person named Sunil over the phone, who claimed to be an employee of Signature Proxima but later it came to be known that no person by the name of Sunil was working for Signature Proxima. Further enquiry revealed that Saurabh Yadav is actually a fraudster, who has duped many unsuspecting persons of their hard- earned money. It has further been alleged by complainant that when he made it clear to Saurabh that he does not want to buy any flat and requested to return the money, two cheques bearing numbers 025173, 025151 of Union Bank for Rs.7,38,000/- were issued, which when presented before the concerned bank were dishonoured. Primarily with this backdrop, complaint was filed requesting the police officials to initiate appropriate proceedings.

On the basis of the said complaint a formal case vide FIR No.372 dated 03.06.2025, u/s 318(4) of BNS (Sections 61(2) of BNS added later on) was registered.

During the course of investigation, statements of other witnesses were recorded, statement of accounts of co-accused Saurabh and his wife Shivani, in Union Bank, Kosli and SBI Bank were obtained and taken into possession. Insofar as the present petitioner is concerned, the role attributed to him is that he in connivance with co-accused Saurabh had shown flat No.704, T-2, Signature Proxima, Sector-89, Gurugram to complainant. The said flat actually was owned by some other person, but it



was projected by petitioner that Saurabh Yadav is the owner thereof. Thus, as per prosecution, present petitioner was fully aware of the entire facts and was active member of the gang comprising of 4-5 other persons, who are habitual of duping innocent investors. It also came to the notice of Investigating Officer that amount of Rs.1,00,000/- was also given to the petitioner. He acted as Ground representative to build trust and credibility with the victims and then facilitated the crime.

3. Petitioner/accused, who was arrested on 03.06.2025, moved an application for grant of bail before the learned Additional Sessions Judge, Gurugram. The same was dismissed vide order dated 05.07.2025. Aggrieved of the said order, the present petition has been filed.

4. Learned counsel for the petitioner contends that petitioner who has not been named in the FIR has been falsely roped in, in the present case only on the basis of supplementary statement of complainant. In fact, petitioner was working as Sweeper/Cleaner with co-accused Saurabh and was totally unaware of the malpractices. He has nothing to do with the fraud committed by the other accused, nor he ever induced complainant to purchase any flat. On the instructions of Saurabh, he merely accompanied complainant to various flats of the Housing Society.

It is further the submission of learned counsel that though in the entire complaint, complainant did not allege having ever handing over any money to petitioner and that it was only in the disclosure statement of co-accused Saurabh, who pointed out that Rs.1,00,000 were given to petitioner, but nothing was infact recovered. Thus, the said disclosure statement in the absence of recovery of any other incriminating material is not admissible in evidence.

The next leg of submission raised by learned counsel is that lenient view deserves to be taken in favour of the petitioner, who has been in custody since 03.06.2025, for investigations are complete and challan has



been filed. Offences being magisterial triable, the completion of trial is likely to take some time.

Thus when viewed in the light of submissions made hereinabove, further incarceration of the petitioner would not serve any useful purpose. Prayer for allowing the petition has been made.

5. Status report dated 17.11.2025 by way of an affidavit of Mr. Abhilaksh Joshi, HPS, Assistant Commissioner of Police, Gurugram has been placed on record. Learned State counsel has opposed the request for grant of bail on the ground that petitioner was an active member of the gang headed by co-accused Saurabh. Petitioner in connivance with Saurabh projected to complainant that flat No. 704, T-2, Signature Proxima, Sector-89, Gurugram belongs to Saurabh, whereas the said flat actually was owned by some other person. It is further the submission of learned State counsel that petitioner is a habitual offender being involved in another case of like nature, in which similar allegations of duping innocent persons have been leveled by showing the flat in the name of the other accused. It is further his contention that in case the concession of bail is granted to the petitioner, there is every likelihood of him fleeing from process of justice by not appearing in the Court. Dismissal of the petition has been prayed for.

6. Both the counsel have been heard and documents on record have been perused.

7. In view of the submissions raised by learned counsel for the petitioner, but without advertng to merits of the case, the Court is of the opinion that no useful purpose would be served by further detention of the petitioner, as the same, without the prospect of trial being concluded in the near future, would be violative of his rights under Article 21 of the Constitution of India, including right to speedy trial and would, thus, also be against the principle of "*Bail is a general rule and incarceration is an exception*" as held by Hon'ble Supreme Court in ***Dataram vs. State of Uttar***



Pradesh and another, 2018(2) R.C.R. (Criminal) 131.

Recently, a Co-ordinate Bench of this Court in **Neelkamal Singh Alias Billa Vs. State of Punjab** passed in CRM-M-39765-2024 has held that although an accused may have past criminal antecedents but nonetheless if the incarceration period is long, he is entitled for the concession of bail.

“Therefore, to elucidate further, this Court is conscious of the basic and fundamental principle of law that right to speedy trial is a part of reasonable, fair and just procedure enshrined under Article 21 of the Constitution of India. This constitutional right cannot be denied to the accused as is the mandate of the Apex court in “Hussainara Khatoon and ors (IV) v. Home Secretary, State of Bihar, Patna”, (1980) 1 SCC 98. Besides this, reference can be drawn upon that pre-conviction period of the under-trials should be as short as possible keeping in view the nature of accusation and the severity of punishment in case of conviction and the nature of supporting evidence, reasonable apprehension of tampering with the witness or apprehension of threat to the complainant. As far as the pendency of other cases and involvement of the petitioner in other cases is concerned, reliance can be placed upon the order of this Court rendered in CRM-M-25914-2022 titled as “Baljinder Singh alias Rock vs. State of Punjab” decided on 02.03.2023, wherein, while referring Article 21 of the Constitution of India, this Court has held that no doubt, at the time of granting bail, the criminal antecedents of the petitioner are to be looked into but at the same time it is equally true that the appreciation of evidence during the course of trial has to be looked into with reference to the evidence in that case alone and not with respect to the evidence in the other pending cases. In such eventuality, strict adherence to the rule of denial of bail on account of pendency of other cases/convictions in all probability would land the petitioner in a situation of denial of concession of bail.”

Resultantly, petitioner is granted the concession of bail subject

to his furnishing bail bonds and two local sureties to the satisfaction of



learned trial Court/Duty Magistrate concerned. The petitioner shall abide by the following conditions:-

- (i) The petitioner shall not leave the country without prior permission of the trial Court and shall deposit the passport in the trial Court.*
- (ii) The petitioner will not tamper with the evidence during the trial.*
- (iii) The petitioner will not pressurize/ intimidate the prosecution witnesses.*
- (iv) The petitioner will appear before the trial Court on each and every date fixed, unless is exempted by a specific order of Court.*
- (v) The petitioner shall not commit an offence similar to the offence of which, he is an accused, or for commission of which he is suspected of.*
- (vi) The petitioner shall not directly or indirectly coerce, induce, threaten or promise to any person acquainted with the facts of the case so as to dissuade him/her from disclosing such facts to the Court or to any police officer or tamper with the evidence in any manner.*
- (vii) The petitioner shall not in any manner misuse his liberty.*
- (viii) The petitioner shall furnish his address and mobile number to the Trial Court forthwith and shall not change the same till the conclusion of the trial and in case for any reason, the petitioner seeks to change any of the aforesaid, the same shall be done only with prior intimation to the learned Trial Court, stating the reason for the same.*
- (ix) The trial Court/Duty Magistrate may impose any other condition, as deemed appropriate while releasing the petitioner.*

8. Accordingly, the present petition is allowed and it is made clear that in case there is any breach of the aforesaid conditions, the State shall be at liberty to seek cancellation of bail as granted to the petitioner by this order.



In view of the above, it is clarified that the observations made herein are limited for the purpose of present proceedings and would not be construed as an opinion on the merits of the case and the trial would proceed independently of the aforesaid observations.

(AARADHNA SAWHNEY)
JUDGE

10.02.2026
Hemant

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