

CRM-M-64472-2024

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-64472-2024
Reserved on: 06.03.2025
Pronounced on: 26.03.2025

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.

ANOOP CHITKARA, J.

FIR No.	Dated	Police Station	Sections
238	13.04.2018	Sector 31, District Faridabad	406, 420, 120-B IPC, 467, 468, 471, 506 IPC and 3 of Haryana Protection of Interest of Depositors in the Financial Establishment Act 2013

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 13 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- B, 204 IPC and 3 of Haryana Protection of Interest of Depositors in financial	Sector 31, Faridabad

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			Establishment Act 2013	
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	217	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
14	231	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

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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 Faridabad	31,
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 Faridabad	31,
17	489	2018	406, 420, 120-B IPC and 3 of Haryana Protection of Interest of Depositors in financial Establishment Act 2013	Sector Faridabad	31,
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 Faridabad	31,
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 Faridabad	31,
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 Faridabad	31,
21	200	2019	406, 420, 120-B IPC and 3 of Haryana Protection of Interest of Depositors in financial Establishment Act 2013	Sector Faridabad	31,
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 Faridabad	31,
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 Faridabad	31,

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

“That the brief facts of the present case are that a complaint was

submitted by Kanwaljeet Singh against Kapil, Rajesh Singla, Anil Jindal Wholetime Director M/s SRS Limited, M/s SRS Limited Through its Director, Vikas Sharma Wholetime Director M/s Navdurga Tradelink Private Limited, Deepak Mangla Director M/s Navdurga Tradelink Private Limited, M/s Navdurga Tradelink Private Limited Through its Director, Prateek Jindal, Amit Kumar Wholetime Director M/s Celebration Jewellers Private Limited, Dinesh Khatri Director M/s Celebration Jewellers Private Limited and M/s Celebration Jewellers Private Limited, alleging therein that Kapil, Rajesh Singla and Anil Jindal and other accused persons approached him and told that SRS is a big group of companies which are investing in the real estate business, construction, retails etc. and if the Complainant makes the investments in the group of companies of SRS, they will give the Complainant a good property in good location and if he is not interested in the property due to any reason then he shall be free to pay more money in advance for the property or take back the money either partly or fully. They will pay interest @ 24% per annum on monthly/quarterly/half yearly/yearly basis on the amount received by the company. They assured the complainant that they will give the property to him less than 20% from the rate which they will sell to their customers. Before making the payment by the complainant, the accused persons showed some space/properties in SRS tower, 305 307, Near Metro Station Mewla Maharajpur, G.T Road Faridabad, and also SRS Mall, Sector-12, Faridabad and told that they will give the space in the said tower, mall or any other site of their group of companies to the complainant and Value of the property is approximately Rs. 13000000/- (Rupees One Crore Thirty Lakhs Only) and if required by the Complainant and if he makes the advance payment to the accused companies, then the accused persons shall execute the sale deed or shall pay the interest on the advance money until the sale deed is not executed. The complainant, believing all the accused, made the payment of Rs. 1,00,00,000/- vide cheque No. 561467 dated 30-07-2015, in favour of M/s Navdurga Tradelink Private Limited, Rs. 3000000/- vide Cheque No. 561470 dated 12-08-2015 in favour of M/s Celebration Jewellers Private Limited. Both the cheques were drawn on Axis Bank Limited, Ballabgarh, Faridabad and the accused persons executed the receipt of the payment on dated 16-07-2015, and the amount was cleared by the banker of the Complainant on 14-08.2015. Dr. Rishi pal was also present at the time. The accused persons, after receiving the said amount of Rs. 1,30,00,000/- from the Complainant, started showing their true colours, and started avoiding to show the property and also to pay the interest to the Complainant as agreed. The complainant later on came to know in the month of March, 2018 that M/s Navdurga Tradelink Private Limited, M/s Celebration Jewellers Private Limited etc. are the shell companies of the accused persons Anil Jindal etc. and through the said shell companies, the accused persons have diverted the money of the Complainant, public in large, banking institutions etc. for their personal use. The advance amount of the Complainant was to be used in purchase of the property with the consent of the Complainant but instead of using it there, the accused persons misused the said money and by this way the accused made wrongful loss to the Complainant and created wrongful gain to themselves. When the complainant approached the accused persons and confronted them, they flatly refused to refund his money and

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threatened him that he can do whatever he wants. They also threatened to kill the Complainant. Prayer was made for taking legal action. Thereupon, the above mentioned FIR No. 238 dated 13.04.2018 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, Faridbad.”

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 he was the whole time Director of M/s SRS Ltd. company from 25.02.2002 to 23.06.2017. He was also the key managerial person of the company during the said period. The petitioner has given his personal guarantee in the loan of Rs. 835 crore which has been obtained by SRS Ltd. company from State Bank of India. The balance sheet of M/s SRS Ltd. company also bears the signatures of the petitioner. The amount of Rs. 80 Lakhs has been found to be credited in the account no. 82202200062325 (Canara Bank) of the petitioner from the company BTL Investments Securities Pvt. Ltd. (shell company of SRS Group). The amount of Rs. 1,23,50,000/- has been found to be credited in the account no. 82202200062325 (Canara Bank) of the petitioner from the company Rajat Fincap Pvt. Ltd. (shell company of SRS Group). The amount of Rs. 33,74,210/- has been found to be credited in the account no. 82202200062325 (Canara Bank) of the petitioner from the company SRS Ltd.”

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

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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 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.

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,

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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

26.03.2025
anju rani

Whether speaking/reasoned: Yes
Whether reportable: No.