

CRM-M-60292-2024

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

**CRM-M-60292-2024
Reserved on: 18.03.2025
Pronounced on: 25.03.2025**

Pawan Kumar

...Petitioner

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MR. JUSTICE ANOOP CHITKARA

Present: Mr. Mayur Karkra, Advocate
for the petitioner.

Mr. Sukhdev Singh, A.A.G, Punjab.

Mr. B.S. Mann, Advocate for
Mr. G.S. Nagra, Advocate for the complainant.

ANOOP CHITKARA, J.

FIR No.	Dated	Police Station	Sections
53	25.06.2024	Julkan, District Patiala	406, 420, 120-B IPC

1. The petitioner apprehending arrest in the FIR captioned above has come up before this Court under Section 438 CrPC (Section 482 of Bharatiya Nagarik Suraksha Sanhita, 2023, [BNSS]), seeking anticipatory bail.

2. In paragraph 22 of the bail petition, the accused declares that he has no criminal antecedents.

3. The facts and allegations are being taken from the translated copy of FIR annexed with the petition, which reads as follows:

“xxxxxxx To, SSP Patiala, Patiala. Subject: Application for taking action against Amritpal Singh S/o Bhagwant Singh Resident of Ismailabad Phone No. 90340-xxxx, 90341--xxxx, 81218--xxxx, Pawan Kumar (Phone No. 79881-xxxx), Jarnail Singh (Phone No. 93195-xxxx), Balvir Singh (86072-xxxx) Resident of Pehowa, Tehsil and District Kurukshetra. Sir, It is requested that I Sahib Singh S/o Tarlok Singh am Resident of Village Khatoli, Tehsil Dudhan Sadhan, District Patiala, such that the abovementioned accused person had come to my house and started telling me that I had asked regarding sending my Nephew Amritpal Singh abroad (Canada) and with me the accused person settled the same for an amount of

Rs. 23 Lacs. In order to send my Nephew (Amritpal Singh) abroad I had prepared all documents and the expenditure of the same was also accepted by the abovementioned accused persons. Such that I had paid an amount of Rs. 16 Lacs for sending my Nephew Amritpal Singh Abroad who was sent to Thailand and thereafter both of the accused persons sent him to Qatar, thereafter I had to call my Nephew Back on my own expenses. Whereas We had talked with the abovementioned accused persons for sending our nephew to Canada but the aforementioned accused persons defrauded us and therefore strict legal action be taken against the aforementioned accused persons and the amount given by us to them be also got returned. As such by moving the present application, it is hereby requested that our money be got returned from the above mentioned accused persons and strict legal action be taken against them so that we can be served Justice.”

4. 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. He further submits that no amount was paid to petitioner.

5. The State as well as counsel for the complainant 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:

“8. That during the course of investigation, accused Amritpal Singh was arrested by the investigating agency on 02.08.2024 and during the interrogation, he disclosed that he in connivance with Pawan Kumar (petitioner) and Jarnail Singh had duped the complainant on the pretext of sending his nephew abroad. Consequently, Pawan Kumar (petitioner) was nominated as accused in the present case/FIR on 02.08.2024.”

REASONING:

7. The allegations against the petitioner are that he in connivance with co-accused duped the complainant to the tune of Rs. 16 lakhs for sending his nephew abroad. However, no amount has been paid to petitioner, as such, he is entitled to bail.

8. 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.

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, 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

25.03.2025
Jyoti-II

Whether speaking/reasoned: Yes
Whether reportable: No.