

CRM-M-48678-2024

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-48678-2024
Reserved on: 11.03.2025
Pronounced on: 25.03.2025

Ishan Bhateja

...Petitioner

Versus

State of Punjab and another

...Respondent

CORAM: HON'BLE MR. JUSTICE ANOOP CHITKARA

Present: Mr. Pankaj Bali, Advocate
For the petitioner.

Mr. Sukhdev Singh, AAG, Punjab.

ANOOP CHITKARA, J.

FIR No.	Dated	Police Station	Sections
2	19.07.2024	Cyber Crime, Sri Muktsar Sahib, District Sri Muktsar Sahib	420, 473, 120-B IPC and 66D of IT Act

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. In paragraph 8 of the bail petition, the accused declares that he has no criminal antecedents.

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

“That the facts of the present case are as under: -

That the FIR in question was registered u/s 420,473 of IPC against four accused namely (i) Sunil Kumar. Son of Manphool (2) Sandeep Kumar, Son of Hans Raj (3) Monty Jhinja son of Bharat Singh (4) Vicky. Son of Satish Munjal and unknown persons on the statement of the private respondent No 2-complainant Akashdeep Singh.

(ii) During the investigation, the names of three persons (1) Shubam, Son of Revta Ram (2) Atul, Son of Raman Kumar (3) Ishan Bhateja son of

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Avinash Chander Bhateja (present petitioner) were nominated in the FIR in question.

(iii) That during the investigation, the offence u/s 120-B of IPC Section 66-D of Information Technology Act were added in the aforesaid FIR

(iv). That the police recovered the following articles from the accused which is hereunder:-

From accused Atul

1. one laptop (2) One mobile phone (3) one DVR (4) 51.700 gms gold jewellery (5) Rs.13,76,270/- cash (6) Money counting machine (7) pocket diary (8) handwriting paper from accused monty, two iphones (1) one ipad (ii) six debit cards.

(v) Now there are total seven accused in the FIR in question including the petitioner and the FIR in question is now for the offences u/s 420,473,120-B of IPC, Section 66-D of the Information Technology Act.”

4. The petitioner's counsel makes the following submissions:-

“The petitioner is a chartered accountant by profession since 2012 (Annexure P-6). As per para no.7 of the reply by State i.e. evidence against the petitioner that the co-accused Monty and Subham called the petitioner from 26.12.2023 to 02.07.2024 for taking advice to invest money in crypto currency and in stock market. Petitioner entertain their calls being local resident and known of one of common friend. Moreover, the petitioner has charged commission at the rate of 20 paise per dollar from them and also showed this income in his income tax return. So if the said calls i.e. 734 which is during the tenure of seven months, be divided it comes to 3 calls a day. If a consultant anyone need to ask a rate for him that some commodity is available at some price and in return the petitioner had also called back after finding some cheaper rate, this will make no offence because the petitioner is doing his job, without having knowledge of work of Subham and Monty co-accused persons.”

5. Petitioner’s counsel further 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.

6. The State’s counsel opposes bail and refers to the reply.

7. It would be appropriate to refer to the following portions of the reply, which read as follows:

“Role of the petitioner The petitioner and the co-accused after hatching a

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criminal conspiracy, were cheating innocent persons. That the accused also cheated with the complainant. The petitioner who is CA is also actively participating in illegal activities with co-accused The mobiles, laptops, and cash amount were recovered from the accused Atul an employee of the petitioner working in his office at Abohar and the said recovered articles were lying in the office of the petitioner situated at Abohar.”

REASONING:

8. Given the fact that petitioner is a chartered accountant and it is a usual course to call the clients many time for the purpose of advise or otherwise. Connectivity of the petitioner with main accused cannot be establish that he was in connivance with main accused. Moreover he also refer his income statement.

9. 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.

10. 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.

11. 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.

12. 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.

13. 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.	

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3.	Mobile number (If available)	
4.	E-Mail id (If available)	

14. This order is subject to the petitioner's complying with the following terms.
15. 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.
16. 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.
17. 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.
18. 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.
19. Any observation made hereinabove is neither an expression of opinion on the case's merits nor shall the trial Court advert to these comments.
20. 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.

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21. Petition allowed in terms mentioned above. All pending applications, if any, stand disposed of.

(ANOOP CHITKARA)
JUDGE

25.03.2025
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Whether speaking/reasoned: Yes
Whether reportable: No.