



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

**CRM-M-64566 of 2024 (O&M)**

**Date of Decision: 21.02.2025**

Shyam Sunder Aggarwal

..... Petitioner

*Versus*

State of Haryana

..... Respondent

**CORAM: HON'BLE MR. JUSTICE MAHABIR SINGH SINDHU**

Argued by:- Mr. Bharat Beriwal, Mr. Saurabh Gautam &  
Mr. Anil Kumar Chauhan, Advocates for the petitioner.

Mr. Ashok Kumar Sehrawat, DAG, Haryana for the respondent  
assisted by ASI Sunil Kumar.

Mr. Vinod Ghai, Senior Advocate assisted by  
Mr. Rahul Sharma-I, Mr. Arnav Ghai, Mr. Suhaan Mukerji,  
Mr. Adarsh Kumar, Mr. Tanmay Sinha & Ms. Manisha,  
Advocates for the complainant.

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**MAHABIR SINGH SINDHU, J.**

Present petition has been filed under Section 483 the Bharatiya  
Nagarik Suraksha Sanhita, 2023 (*for short 'BNSS'*) with the following  
prayers:-

*“for grant of bail pending trial to the petitioner in FIR  
No.121 dated 25.03.2023, under Sections 409, 420, 467, 468,*

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*471 & 120-B of the Indian Penal Code, 1860 (for short 'IPC'), registered at Police Station DLF, Sector 29, District Gurugram &*

*Further prayed that this Hon'ble Court may be pleased to issue any other appropriate relief that this Court may deem fit and proper in the peculiar facts and circumstances of this case."*

(2) Above FIR was registered on the basis of written information, supplied by Ramesh Prabhu, Chief Financial Officer (CFO), Gameskraft Technologies Private Limited, Gurugram (for short 'GKT Pvt. Ltd.') and the allegations in this regard can be recapitulated from the order dated 04.12.2024 (P-1), passed by learned Additional Sessions Judge, Gurugram and which are as under:-

*"Brief facts of the case are that on 22.09.2022, complainant Ramesh Prabhu, CEO, Games Kraft Technologies Pvt. Ltd, made complaint in the police Station Shivaji Nagar, Sector 11, Gurugram against Vihaan Kumar, his employees/personnel and associated entities for cheating the complainant company of more than Rs. 92 crores. It is alleged in the complaint that Vihaan Kumar introduced himself to be an investor in September-October, 2020, who works out of multiple entities established at Gurugram and one of the key entity is NSP Innoviontech LLP situated at Circle work, 4th Floor, Huda City Center, Sector 29, Gurugram. He continued to lure the promoters on the promise of a large investment by him and instructed a change in the Board composition of the complainant company for operational purposes. Through his*

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*false inducement, he nominated his personnel to the Board of Directors of the company and obtained complete control of the Board. However, he kept postponing the actual investment to be made by him on various pretexts and gave repeated false assurance to the promoters. Due to the inducements made by him, the founders of Gameskraft permitted him to represent himself as a founder/promoter of the company, externally to their parties, as well as internally to Gameskraft employees. He continued to represent himself as a founder/investor of the Gameskraft and held meetings with various third parties including firms such as Ernst and Young, PWC, Law firms and Government officials etc. towards his expansion plans. He used personnel of his companies to act as his representative, who carried out his instructions with respect to Gameskraft's business and the details of such persons/entities are M/s Clear Though Advisors (Proprietorship) CLA's GSTIN is registered with the legal name Vihaan Kumar; Sadhan Finserve Private Limited; Vijay Kumar Dhanuka, Sadhan Enterprises (I) Private Limited , NSP Innovations LLP , Arthmate Tech P2P Financial Private Limited. Vijay Kumar Dhanuka and Hitesh Bhansali were Vihaan's personnel, who executed directions given by him. Additionally, Gameskraft personnel, including complainant would act on such directions as they were under the impression that he was akin to a promoter/founder. Accused selected Umesh Kumar Ram and Rajesh Kumar Lohia by assuring complainant that they are competent and would provide them the requisite professional expertise relevant to the business, who later on were appointed as Directors of the company on his advice. He refused to permit any one from Gameskraft company to directly interact with newly appointed Directors. It is further stated that after discovering various*

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*irregularities at the end of Vihaan Kumar`s engagement with the company, they conducted a due diligence and background of the aforesaid Directors and found that signatures of the aforesaid Directors i.e. Umesh Kumar Ram and Rajesh Lohia in the MCA documents and document available with the company did not match, which shows that accused with mala fide intention introduced these two Directors of the company so that he could take control of the company`s business. In October-December,2021, when they tried to change the composition of the Company`s Board, they could not contact Umesh Kumar and Rajesh Lohia as all the communication used to take place through said accused. When complainant company requested to co-operate, he did not cooperate and even did not provide the company`s documents. To regain control, company had to invoke a special procedure under the Companies Act, 2013, to appoint qualified professional persons as Directors and to remove Umesh Kumar Ram and Rajesh Kumar Lohia from the Board.*

*It is further alleged that accused unilaterally selected and onboarded certain service providers such as Fly Tech Services (Proprietorship) for Software Development and Consultancy services; Ginni Technology (Proprietorship), Skytech Technology (Proprietorship), Synx Technology (Proprietorship) and Key Solutions Technology (Proprietorship) for IT/ITES Services; Flora Engineering (Proprietorship) for General Construction Services and Netaccess Communications Limited for various services/goods including providing automatic data readers, machines for panalogue and engagement of aforesaid service providers, including scope of work, execution of agreements, check on work progress, confirmation of receipt of services and release*

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*of payment were entirely managed by accused Vihaan Kumar, Vijay Dhanuka and Hitesh Bhansali and finance department of the company was directed by the accused to release the payment to these companies from time to time. It is further stated that company was asked to make certain payment of GST by the officials of GST department, Bengaluru for the invoices raised by the aforesaid companies but their company had already made payment of invoices raised by these companies including the GST but they failed to deposit the GST received by them, which caused huge loss to the tune of Rs.12,15,00,000/-. They attempted to contact the persons to know the reason as to why the GST dues were not paid, but none of the entities were found at the given address. On enquiry, it was found that accused had done similar frauds with some other companies as well. Complainant requested to register a FIR against accused Vihaan Kumar, Vijay Kumar Dhanuka, Hitesh Bhansali and other unknown persons.”*

**(3) CONTENTIONS ON BEHALF OF THE PETITIONER**

**(3.1)** Contends that initially, petitioner was not named in the FIR; rather subsequently nominated on the basis of disclosures made by Rajesh Kumar Lohia & Umesh Kumar Ram (Directors of GKT Pvt. Ltd.); but none of them has been arrayed as an accused.

**(3.2)** Further contends that mere allegation against the petitioner regarding recommendations of the aforesaid Rajesh Kumar Lohia & Umesh Kumar Ram for induction as Directors of GKT Pvt. Ltd. would not imply that petitioner has played any role in the commission of alleged crime.



(3.3) Also contends that there is no allegation of forgery/cheating/misappropriation/inducement or conspiracy attributed to the petitioner; rather he has been made as a scapegoat by the Investigating Officer in connivance with the *de facto* complainant.

(3.4) Still further contends that petitioner is not the beneficiary of the alleged money withdrawn from the account of GKT Pvt. Ltd.; rather it is stated to have been received by some Companies with whom petitioner is having no concern.

(3.5) Again contends that petitioner joined investigation twice on 24.05.2023 & 11/12.08.2023 and on third occasion i.e. 12.08.2024 also, he duly participated in the investigation during the course of day; but all of a sudden, he was arrested at 10:00 p.m. in a most arbitrary manner.

(3.6) Yet again contends that petitioner always participated during the ongoing investigation for a period of more than one year while coming from West Bengal to Gurugram and the Investigating Officer never pointed out any lapse on the part of petitioner during the entire investigation.

(3.7) Vehemently contends that grounds of arrest were never furnished to the petitioner by the Investigating Officer; thus, there is gross violation of Section 50 of the Code of Criminal Procedure, 1973 (*for short 'Cr.P.C.'*) as well as Article 22(1) of the Constitution; therefore, his arrest is completely illegal.



(3.8) Also contends that petitioner never met the main accused-Vihaan Kumar before or after the alleged transactions; moreover, arrest of aforesaid accused has been set aside and he was ordered to be released from custody, vide order dated 07.02.2025, passed by Hon'ble the Supreme Court in **S.L.P. (Criminal) No.13320 of 2024**, titled as “**Vihaan Kumar Versus State of Haryana & another**”.

(3.9) Further contends that investigation *qua* the petitioner is already over; report under Section 173 Cr.P.C. has been presented before the Court of competent jurisdiction on 03.09.2024 and there is no material regarding his complicity for commission of the alleged crime.

(3.10) Still further contends that petitioner is the sole bread earner of the family and having two minor children to be looked after by him.

(3.11) Lastly contends that present case is triable by Magistrate; petitioner is not involved in any criminal activity; he is in custody since 12.08.2024; charges are yet to be considered, thus, trial will take sufficient long time; hence, further incarceration of the petitioner would not serve any useful purpose.

(3.12) In support of aforesaid contentions, learned Counsel for the petitioner has also placed reliance on the following judicial pronouncements:-

1.	<b><i>Sanjay Chandra Versus CBI, (2012) 1 SCC 40</i></b>
2.	<b><i>Dataram Singh Versus State of U.P. and another, (2018) 3 SCC 22</i></b>



3.	<i>Prabhakar Tiwari Versus State of U.P. (2020) 11 SCC 648</i>
4.	<i>Siddharth Versus State of U.P. and another (2022) 1 SCC 676</i>
5.	<i>Satender Kumar Antil Versus CBI and another (2022) 10 SCC 51</i>
6.	<i>Munshi Sah Versus State of Bihar (2023) SCC OnLine SC 1916</i>
7.	<i>Prabir Purkayastha Versus State (NCT of Delhi), (2024) 8 SCC 254.</i>
8.	<i>Pranav Kuckreja Versus State (NCT of Delhi) 2024 SCC OnLine Del 9549</i>

(4) **CONTENTIONS ON BEHALF OF THE STATE**

(4.1) Learned State Counsel, on instructions from ASI Sunil Kumar, opposed the prayer while submitting that petitioner hatched criminal conspiracy with other co-accused and defrauded GKT Pvt. Ltd. to the tune of ₹ 92 crore (approx.); therefore, he does not deserve the concession of bail pending trial.

(4.2) Also contends that petitioner introduced the names of above Umesh Kumar Ram & Rajesh Kumar Lohia for their induction as Directors of GKT Pvt. Ltd. on asking of co-accused Amit Khetan and in lieu thereof, petitioner received ₹ 18,000/-, ₹ 5 Lakh and ₹ 9,000/- in March, 2021, November, 2021 & August, 2022, respectively.



(4.3) Further contends that petitioner had created digital signatures of Director-Umesh Kumar Ram and handed over the same to co-accused Amit Khetan for committing the crime.

(4.4) Lastly contends that in case petitioner is released on bail, he may pressurize Rajesh Kumar Lohia & Umesh Kumar Ram; threaten them and that may hamper the fair trial.

(5) **CONTENTIONS ON BEHALF OF THE COMPLAINANT**

(5.1) Learned Senior Counsel for the complainant has also opposed the prayer and submitted that allegations levelled against the petitioner are serious in nature inasmuch as he along with other co-accused cheated GKT Pvt. Ltd. to the tune of ₹ 92 crores (approx.)

(5.2) Also submitted that grounds of arrest were duly communicated to the petitioner by the Investigating Officer; thus, there is neither any violation of Article 22(1) of the Constitution; nor of Section 50 Cr.P.C.

(5.3) Further submitted that petitioner along with co-accused got transferred ₹ 86,30,42,434/- in the accounts of ten fake Companies, created by them and did not pay any G.S.T.; nor any services were rendered to GKT Pvt. Ltd.

(5.4) Lastly submitted that three co-accused of the petitioner, namely, Hitesh Bhansali, Amit Khetan & Vijay Kumar are yet to be apprehended and in case petitioner is released on bail, he may influence them as well.



(5.5) In support of aforesaid contentions, learned Counsel for the complainant has placed reliance on the following judicial pronouncements:-

1.	<b><i>Soni Natverlal Versus State of Gujarat, 1983 CriLJ 1124</i></b>
2.	<b><i>Ita D'Monte Versus State by Inspector of Police, C.B.C.I.D. Madras (1994) 1 MLJ (Crl.) 553</i></b>
3.	<b><i>Arvind Kejriwal Versus Directorate of Enforcement, (2024) SCC OnLine SC 1703</i></b>
4.	<b><i>Pankaj Bansal Versus Union of India (2024) 7 SCC 576</i></b>
5.	<b><i>Prabir Purkayastha's case (supra)</i></b>
6.	<b><i>Rajrishi Bindawat Versus State of Maharashtra and another, (2024) SCC OnLine Bom 3660</i></b>
7.	<b><i>Vihaan Kumar's case (supra)</i></b>
8.	<b><i>Vicky Bharat Kalyani Versus State of Maharashtra (2025) SCC OnLine Bom 193</i></b>

(6) Heard learned Counsel for the parties and perused the paper-book.

(7) It is to be noticed here that both sides argued strenuously on the legality and validity of the petitioner's arrest made by the Investigating Officer on 12.08.2024; but as present petition has been filed for seeking bail pending trial; therefore, instead of examining the legality of arrest, this Court deems it appropriate to consider "*as to whether petitioner is entitled for bail pending trial?*"



(8) There is no quarrel that initially, petitioner was not named in the FIR; rather he has been subsequently nominated on the basis of disclosures made by Rajesh Kumar Lohia & Umesh Kumar Ram. Both of these persons i.e. Rajesh Kumar Lohia and Umesh Kumar Ram were inducted as Directors of GKT Pvt. Ltd.; but none of them is arrayed as an accused for the reasons best known to the prosecution as well as the *de facto* complainant.

(9) It is quite evident that after arraying the petitioner as an accused, he received first Notice from the Investigating Officer on 24.05.2023 and in pursuance thereof, he duly joined the investigation. Thereafter, he received second Notice on 11/12.08.2023 and he fully participated in the investigation. Again, petitioner received third Notice for appearance on 12.08.2024 and he duly appeared before the Investigating Officer at Gurugram after coming from West Bengal; duly answered the question(s) asked during investigation throughout the day; but all of a sudden at 10:00 p.m., he was arrested by the Investigating Officer without recording and/or supplying any reason(s) to that effect.

(10) This Court has gone through the entire police papers; but it is nowhere discernible that there was any necessity or pressing need to arrest the petitioner in such odd hours i.e. at 10:00 p.m., especially when he was always available for investigation in response to the successive Notice(s), sent by the Investigating Officer.



(11) It is curious to note here that petitioner fully cooperated in the investigation for more than fourteen months and during this period, Investigating Officer never pointed out that petitioner has failed to answer any question during the ongoing investigation; then in such a scenario, there was no occasion to arrest him merely on account of the fact that Investigating Officer was empowered to do so.

(12) Apart that, petitioner is the sole bread earner of the family and he is having two minor children to be looked after. Investigation *qua* him is already over and report under Section 173 Cr.P.C. has been presented before the Court of competent jurisdiction; but charges are yet to be considered; thus, trial is likely to take sufficient long time.

(13) Also noteworthy that it is a magisterial trial and during the course of hearing, both sides acknowledged that petitioner is not involved in any other criminal activity; thus, in the opinion of this Court, further incarceration of the petitioner would not serve any purpose.

(14) Although, learned Senior Counsel for the complainant expressed apprehension that in case petitioner is released on bail, he may pressurize and/or influence the aforesaid Rajesh Kumar Lohia & Umesh Kumar Ram during the course of trial; but that is only imaginary and without any basis; hence, contention to that effect is hereby rejected.

(15) So far as the judicial precedents, cited on behalf of the complainant are concerned, the same would be of no help; rather



distinguishable in view of the fact that the same are dealing with the legality of “arrest” under different statutes i.e. TADA/PMLA & UAPA etc.; whereas present petition has been filed for seeking bail.

(16) In view of the above, this Court deems it appropriate that petitioner deserves the concession of bail pending trial.

(17) Consequently, petition is allowed.

(18) Petitioner be admitted to bail pending trial on his furnishing bail bonds and surety bonds to the satisfaction of learned trial Court/Chief Judicial Magistrate/Duty Magistrate concerned.

(19) Petitioner shall fully co-operate with learned trial Court without seeking any unnecessary adjournments.

(20) The above observations be not construed as an expression of opinion on merits of the case, in any manner.

(21) It is clarified that in case there is any misuse of concession of bail on the part of petitioner, State as well as complainant would be at liberty to move an appropriate application for recalling of this order.

Pending application(s), if any, shall also stand disposed off.

21<sup>st</sup> February, 2025  
Gagan

( MAHABIR SINGH SINDHU )  
JUDGE

<i>Whether speaking/reasoned</i>	<i>Yes</i>
<i>Whether Reportable</i>	<i>Yes</i>