



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

**CRM-M-15508-2025 (O&M)**  
**Date of Decision : 02-05-2025**

Anil Kumar and Another

.....Petitioner(s)

Versus

State of Haryana and Another

.....Respondent(s)

**CORAM: HON'BLE MR. JUSTICE ANOOP CHITKARA**

Present: Mr. K.S. Virk, Advocate and  
Ms. Payal Sharma, Advocate  
for the petitioners.

Ms. Harpreet Kaur, AAG, Haryana.

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**ANOOP CHITKARA, J. (Oral)**

<b>FIR No.</b>	<b>Dated</b>	<b>Police Station</b>	<b>Sections</b>
41	23.2.2025	Sadar Safidon, District Jind	316(2), 318(4) BNS and Section 24 Immigration Act

1. The petitioners apprehending arrest in the FIR captioned above have come up before this Court under Section 482 of Bharatiya Nagarik Suraksha Sanhita, 2023, [BNSS], seeking anticipatory bail.
2. In paragraph 11 of the bail petition, the accused declares that they have no criminal antecedents.
3. The facts and allegations are being taken from the reply filed by the State, which reads as follows:

“2. That on 23.02.2025, on the complaint of Sumit son of Daler Singh, resident of Sahanpur, District Jind, respondent No.2, a case bearing FIR No. 41 dated 23.02.2025 u/s 316(2), 318(4) BNS and 24 Immigration Act, was registered at Police Station Badar Safidon against the petitioners and co-accused. The complainant in the complaint has averred as under:-

"To, SHO Sadar Safidon Subject: Complaint against Jitendra Kumar, son of Jagmal Singh, resident of village Kurana, Tehsil Israna, District Panipat; Manpeet Singh, son of Mrs. Gurmeet Kaur, resident of House No. 71. Ansal Sushant City, Panipat, Sunil and Anil, sons of an unknown person, residents of Kakonda, Assandh and Praveen, resident of Siwaha, regarding fraudulently sending abroad and extorting money. Respected Sir, 1, Sumit, son of Daler Singh, resident Sahanpur, Jat by caste, have

two siblings (one brother and one sister) who are married. I am unmarried. I met Sunil and Anil, residents of Kakonda (9350479089), who introduced me to Jitendra (8053258537). Jitendra induced me for going to America and agreed to send me by airplane for ₹50,00,000 (50 lakh). On 2nd October 2024, I left home for Delhi and then reached Amsterdam country. After one night, I was sent to Port of Spain Guyana. After reaching Guyana, the agent told me that I had to go to Colombia by bus or taxi. From there, I travelled to Brazil, then to Nalonia, then to Peru, then to Ecuador, and from Ecuador to Colmania. There, Jitendra trapped me and told me that I would have to go to America through the jungle via Panama. I refused to take the jungle route, but he misled me for two months and forced me to take the jungle route, eventually sending me to Panama. I crossed the jungle and reached Costa Rica. From there, I travelled by bus and taxi and reached Nicaragua, then Honduras, then Guatemala, and finally Tapachula. After making the full payment, I reached Mexico City, where I was kept for 20 days. After repeated requests, Jitendra booked my light to Baja California. From there, I took a taxi to Tijuana, which is on the U.S.-Mexico border. On 8th February 2025, Jitendra helped me cross the US border wall. However, American border police caught me and took me to San Diego, California. On 14th February 2025, they departed me to Panama by air. There, I was detained by immigration officers, who kept me in a hotel for a week before sending me to Istanbul, Turkey, via plane. Today, on 23rd February 2025, I was sent back to Delhi, where Haryana Police safely brought me home. Now, I request Haryana Police to take legal action against the aforementioned individuals who defrauded me of ₹50 lakh in the name of sending me abroad. I also want my money returned. I deposited 1 lakh in the account of Devendra, son of Ranveer Rathi, resident of Sahanpur, and I will provide the account details. The remaining 49 lakh (Forty nine lakh) was paid in cash by my family, and we have video proof of the transactions. Out of this, 7 lakh was given to Jitendra in person and 17 lakh (Seventeen lakh) were given to Manpreet, Praveen, and Jitendra and Rs. 25 lakh (Twenty five lakh) was given to Jitendra through Anil and Sunil. Hence, I request appropriate action and justice for me. Signed, Sumit, son of Daler Singh Resident of Sahanpur, Tehsil Safidon, District Jind-126112 (Mobile: 19168150791) Date: 23/02/2025."

4. The petitioners' counsel prays for bail and has no objection to imposing any stringent conditions and contends that pre-trial incarceration would cause an irreversible injustice to the petitioners and their family. He further undertakes that during the period of bail, they shall not commit any offence and in case he commits any offence in which the sentence provided is more than seven years, the State shall be at liberty to file an application for cancellation of bail, to which they will not raise any objection. Petitioner's counsel further submits that the petitioners had joined the investigation and petitioner no.1 and petitioners no.2 have handed over/returned the alleged money i.e. Rs.1,10,000/- and Rs.10,000/- respectively to the investigator to be returned to the complainant.

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:

“11. That so far as role of petitioners-accused, is concerned it is submitted that upon investigation of the case, it has been surfaced that the petitioners-accused and other co-accused are indulged in extorting money from people by falsely assuring to send them abroad after taking huge sum of money. The present case was registered with specific allegations that the petitioners had introduced the complainant to the main accused Jitender Kumar @ Jitu with a promise to send the complainant abroad on payment of Rs 50,00,000/-. Ultimately the matter was settled in Rs. 38 lakh and payment of the said amount was made on different dates. The complainant was sent to USA through dunki route illegally where he was apprehended and detained. Now, he has been deported to India from USA. The petitioners had received Rs. 1,20,000/- on account of commission for sending the complainant to abroad. The complainant thus has been cheated of a huge amount which was taken from him for sending him abroad illegally. Such type of offences are increasing day by day in which innocent persons are being duped of their hard earned money. Custodial interrogation of the petitioners accused is thus essential to go into the root of the case and to find out the modus operandi as to how the complainant was illegally sent abroad and who are the other persons involved in the crime. The nature and gravity of the offence are very serious. In these circumstances, the custodial interrogation of petitioners-accused is essential for sustained interrogation/to find out the modus operandi of accused in cheating the people for sending them abroad. The arrested accused have also specifically averred the involvement of the petitioner in this case.

In this case, one accused Jitender Kumar, out of total five accused, has been arrested and he is in judicial custody. Whereas arrest of remaining four (4) accused namely Manpreet son of Gurmeet Kaur, resident of Panipat, Parveen Dutt, resident of Siwaha, Panipat and Anil Kumar and Sunil Kumar- petitioners is still pending. It pertinent to mention here that directly no amount was received by the petitioner, but they have received Rs.1,20,000/- on account of commission which is to be recovered from the petitioners.”

#### REASONING:

7. The amount which was received by the petitioners has already been recovered from them and there is no allegation of receipt of commission by them. Moreover, the police fails to make out a case for custodial interrogation. 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.

8. Considering the conduct of the petitioners in which they have duly cooperated in the investigation and 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 petitioners make a case for bail.

9. Given above, provided the petitioners are not required in any other case, they 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.

10. While furnishing a personal bond, the petitioners 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)	

11. This order is subject to the petitioners' complying with the following terms.

12. The petitioners are 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 petitioners shall be in deemed custody for Section 27 of the Indian Evidence Act, 1872/ Section 23 of BSA, 2023. The petitioners 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 petitioners shall not be subjected to third-degree, indecent language, inhuman treatment, etc.

13. The petitioners shall abide by all statutory bond conditions and appear before the concerned Court(s) on all dates. The petitioners 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.

14. 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 petitioners notice of a minimum of seven days, providing an opportunity to avail the remedies available in law.

15. This bail is conditional, and the foundational condition is that if the petitioners 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.

16. Any observation made hereinabove is neither an expression of opinion on the case's merits nor shall the trial Court advert to these comments.

17. A certified copy of this order would not be needed for furnishing bonds, and any Advocate for the Petitioners 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.

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

02-05-2025  
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**(ANOOP CHITKARA)**  
**JUDGE**

NOTE: Whether speaking/non-speaking: Speaking  
Whether reportable: YES/NO