

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-56958-2024
Reserved on: 07.04.2025
Pronounced on: 21.04.2025

Lakhwinder Singh

...Petitioner

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MR. JUSTICE ANOOP CHITKARA

Present: Mr. Lokesh Vohra, Advocate for the petitioner.

Mr. Adesh Pal Singh, AAG, Punjab.

ANOOP CHITKARA, J.

FIR No	Dated	Police Station	Sections
216	10.10.2024	City Rajpura, District Patiala	419/420/468/471/120-B IPC

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 10 of the bail petition, the accused declares that he has no criminal antecedents.

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

“3. That the brief facts of the present case/FIR No. 216 (supra) are that a complaint dated 08.03.2024 was moved by Bajaj Finance Limited through its authorized signatory Mr. Gaurav, before Senior Superintendent of Police, Patiala, against Lakhwinder Singh (present petitioner) and Shubham, proprietor of Jyoti Enterprises, with the allegations that the complainant company is in finance business and extend various types of loans such as Personal loan, Consumer durable loan, Business loan and Flexi loan to its customers as per their requirement and subject to meeting the criteria of the complainant company. That Lakhwinder Singh (petitioner) was employee of Quess Corp Ltd and the said organization was providing resources to complainant for specific assignment and accordingly, petitioner was deputed by the Quess Corp Ltd to perform certain responsibilities for the complainant. As a part of their job role, petitioner was supposed to process the documents of the customers who want to avail loans from the complainant for purchasing any products from the dealership. The petitioner was therefore working as Sales Officer/Service Executive at the dealer of Jyoti Enterprises. The petitioner was

authorized to collect, verify and process the loan documents provided by the customers who wanted to avail loan from the complainant for purchasing of product from the dealership of Shubham Sharma, who was a proprietor of M/s Jyoti Enterprises, with whom the complainant had ties up for providing finance facility to the customers who wish to purchase various products from him. That as per the agreement and policy of the complainant that whenever consumer durable loan is booked at any of dealership then the dealer is responsible for the delivery of the product and he would deliver the product at residential address of the customer which is to be as per his provided KYC. Further, dealer would also be responsible for clicking live photo of the customer who is availing the finance facility from the complainant. That petitioner in connivance with Shubham Sharma had processed fake and fraudulent loans wherein they had used the fake and forged documents of innocent people. Further, petitioner had logged the fraudulent loan files in the complainant's system without adhering to the internal policies. As a protocol, it was mandatory that the live photo of the customer who is availing the loan had to be clicked in the premises of the respective dealership. However, in the present case, the customers had not visited the dealership and the petitioner and Shubham Sharma managed to click photos of the customers at various random places and uploaded the same in the system for processing the loans. Moreover, the products which were shown by petitioner to be delivered at various addresses were purportedly fabricated by them. Petitioner and Shubham Sharma had shared fake invoices to the complainant and basis that complainant had disbursed the loan amount in the bank accounts of Shubham Sharma.”

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 their family.
5. The State's counsel opposes bail and refers to the short reply.
6. It would be appropriate to refer to the following portions of the short reply, which read as follows:

“5. *ROLE OF PETITIONER*

That from the enquiry conducted, it was found that petitioner being employee of complainant company and Shubham through his shop Jyoti Enterprises somehow obtained the ID proofs of 17 persons and had approved 26 loans from Bajaj Finance Company (complainant company) in their names of different electronic items such as LED, Mobile etc. and had shown these electronic items to be sold in their names in the records whereas the persons in whose names the loans were approved had not availed these loans nor purchased any electronic item on loan.”

REASONING:

7. Pursuant to his undertaking recorded on 14.02.2025, petitioner has handed over detail of his assets, so that recovery could be effected from him in accordance with law.

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. The Police did not arrest the petitioner; if they intended to arrest the petitioner, it was not impossible.

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. This order shall come into force from the time it is uploaded on this Court's official webpage.

10. 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.

11. 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)	

12. This order is subject to the petitioner's complying with the following terms.

13. 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.

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 petitioner 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 petitioner indulges in any non-bailable offense, the State shall 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 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.

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

21.04.2025
Jyoti Sharma

(ANOOP CHITKARA)
JUDGE

Whether speaking/reasoned: Yes
Whether reportable: No.