

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

**CRM-M-42498-2025
Reserved on: 08.09.2025
Pronounced on: 30.09.2025**

**KAMAL KUMAR @ KAMAL KUMAR
GURJAR**

...PETITIONER

VERSUS

STATE OF HARYANA

...RESPONDENT

CORAM: HON'BLE MR. JUSTICE ANOOP CHITKARA

Present: Mr. Ram Kumar Saini, Advocate for the petitioner.

Dr. Jasmine Gill, AAG, Haryana.

Ms. Anita Kumari, Advocate;
Ms. Rose Gupta, Advocate and
Ms. Nitika Gupta, Advocate for the complainant.

ANOOP CHITKARA, J.

FIR No.	Dated	Police Station	Sections
532	22.09.2020	Azad Nagar, District Hisar	406/420 IPC (Sections 408/467/471 IPC added and Sections 406 IPC deleted later on)

1. The petitioner incarcerated in the FIR captioned above had come up before this Court under Section 483 of Bharatiya Nagarik Suraksha Sanhita, 2023, [BNSS], seeking regular bail.
2. Per paragraph 15 of the bail petition and para 10 of the reply, the petitioner 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 brief facts of the case are that the present case has been registered on the statement of complainant Vipul Aggarwal son of Shri Shyam Lal Aggarwal, resident of Goyal Highway Petrol Pump, Muklan Hisar, Azad Nagar Hisar, District Hisar. The version of the complaint is reproduced as follows:-

It is most respectfully submitted by the complaint that I am running a petrol pump under the name and style of Goyal Highway, Muklan, District Hisar. We had employed one Kamal Kumar Gujjar (petitioner/accused), Mobile No. 095881-51085, son of Shri Nampa Ram Gujjar (Mobile No. 96496-02637), permanent resident of Ward No.10, Tehsil Data Ramgarh, Village Chirasara, District Sikar, Rajasthan - 3330025, as Manager at our petrol pump. That during the course of his employment, the said Kamal Kumar misappropriated the cash amount of the petrol pump and also committed fraud with our customers and credit account holders by preparing false and

fake bills in their names. He further manipulated the accounts by showing false credit entries against certain trucks and thereby misappropriated the cash amount. On 18.08.2020 at about 10:30 P.M., after destroying certain false and fabricated bills/parchis, the said Manager Kamal Kumar absconded from the petrol pump by hatching a conspiracy. Thereafter, when we contacted his father, he requested for time till 05.09.2020 and assured that the misappropriated amount would be returned. However, despite repeated requests and reminders, neither Kamal Kumar nor his family members have returned the said amount. Now, his father is also avoiding the matter by stating that Kamal Kumar is staying at his in-laws' place. The details of the misappropriated amount are as follows:

- 1. Dated 29.05.2020 Chetan Dass, Vehicle No. RJ-07GC-1017, Bill No.53222, Amount Rs.20,170/- Mobile No. 63777-83041.*
- 2. Dated 17.05.2020-Shish Pal, Bikaner, Vehicle No. RJ-07GB-9872, Bill No. 53140, Amount Rs.96,360/-, Mobile No. 96360-69326.*
- 3. Dated 16.06.2020-Bhera Ram, Vehicle No. RJ-07GB-3570, Bill No. 53436, Amount Rs.10,000/-, (Mobile No. not available).*
- 4. Dated 14.08.2020 - Vikram Rawat, Vehicle No. RJ-09GB-8595, Bill No. 53963, Amount Rs.29,000/-, Mobile No. 91168-98595.*

Apart from the above, the accused Kamal Kumar also misappropriated:

Rs.15,000/- in cash from our petrol pump.

Rs.3,073/- belonging to our salesman Vishnu s/o Chandiram, r/o Kalwa.

Rs.10,000/- from mobile recharge accounts of the staff.

Thus, the accused has committed criminal breach of trust, cheating, preparation of forged documents, and theft from the petrol pump, and thereafter absconded to cause wrongful loss to us and unlawful gain to himself. It is therefore requested that strict legal action be taken against the accused Kamal Kumar, and the misappropriated amount be recovered from him at the earliest. I shall be highly obliged for your prompt action in the matter.”

4. Counsel for the petitioner submits that the petitioner has been falsely implicated in the present case and nothing has been recovered from him. The petitioner's counsel 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.

5. The petitioner's counsel submits that the petitioner would have no objection whatsoever to any stringent conditions that this Court may impose, including that if the petitioner repeats the offense or commits any non-bailable offense which provides for a sentence of imprisonment for more than seven years, the State may file an application to revoke this bail before the concerned Court having jurisdiction over this FIR, which shall have the authority to cancel this bail, and may do so at their discretion, to which the petitioner shall have no objection.

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:

“11. That as far as specific role of the petitioner/accused is concerned the petitioner/accused embezzled an amount of Rs. 1,35,943 from the petrol pump of the complainant. He procured forged bills of regular customers of petrol pump and sold the diesel mentioned in the several bills to unknown persons, received the amount of same customers and also misappropriated the same. He also took away Rs.15,000/- and Rs.3,075/- from the salesman at petrol pump.”

REASONING:

8. There is sufficient prima facie evidence connecting the petitioner with the alleged crime. However, pre-trial incarceration should not be a replica of post-conviction sentencing. Per paragraph 09 of the bail petition, the petitioner has been in custody since 12.05.2025. Per the custody certificate dated 05.09.2025, the petitioner’s total custody in this FIR is 03 months and 22 days.

9. The law of bail, like any other branch of law, has its own philosophy, and occupies an important place in the administration of justice and the concept of bail emerges from the conflict between the police power to restrict liberty of a man who is alleged to have committed a crime, and presumption of innocence in favour of the alleged criminal.¹In deciding bail applications an important factor which should certainly be taken into consideration by the Court is the delay in concluding the trial.—Often this takes several years, and if the accused is denied bail but is ultimately acquitted, who will restore so many years of his life spent in custody? —Is Article 21 of the Constitution, which is the most basic of all the fundamental rights in our Constitution, not violated in such a case? —Of course this is not the only factor, but it is certainly one of the important factors in deciding whether to grant bail.² Personal liberty is a very precious fundamental right and it should be curtailed only when it becomes imperative according to the peculiar facts and circumstances of the case.³ Personal liberty deprived when bail is refused, is too precious a value of our constitutional system recognised under Art. 21 that the curial power to negate it is a great trust exercisable, not casually, but judicially with lively concern for the cost to the individual and the community.⁴ When the undertrial prisoners are detained in jail custody to an indefinite period, Article 21 of the Constitution is violated.⁵

10. Given the above, the penal provisions invoked viz-a-viz pre-trial custody, coupled with the prima facie analysis of the nature of allegations, and the other factors peculiar to this case, there would be no justifiability further pre-trial incarceration at this stage, subject to the compliance of terms and conditions mentioned in this order.

1 Supreme Court of India in Vaman Narain Ghiya v. state of Rajasthan, [E-SCR] ; [2008] 17 SCR 369, Para 16, decided on 12.12.2008.

2Supreme Court of India in State of Kerala v. Raneef, SC 2J [E-SCR]; [2011] 1 SCR 590, Para 4, decided on 03.01.2011.

3 Supreme Court of India in Siddharam Satlingappa Mhetre v. State of Maharashtra, SC 2J [E-SCR], Paragraph 127, decided on 02.12.2010.

4 Supreme Court of India in Babu Singh & ors v. State of UP, [E-SCR] P. 777, decided on 31.01.1978.

5 Supreme Court of India in Sanjay Chandra v. CBI , [2011] 13 (ADDL.) S.C.R. 309, Para 26, [E-SCR], decided on 23.11.2011.

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. 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.

13. Given the above, provided the petitioner is not required in any other case, the petitioner shall be released on bail in the FIR captioned above, subject to furnishing bonds to the satisfaction of the concerned Court and due to unavailability before any nearest Ilaqa Magistrate or duty Magistrate, with or without sureties, with a maximum bond amount not to exceed INR 10,000.

14. Before accepting the surety, the concerned Court must be satisfied that if the accused fails to appear, the surety is capable of producing the accused. However, instead of surety, the petitioner may provide a fixed deposit of INR 10,000/-, with a clause that the interest shall not be accumulated in FD, either drawn from a State-owned bank or any bank listed on the National Stock Exchange and/or Bombay Stock Exchange, in favour of the "Chief Judicial Magistrate" of the concerned Sessions Division; or a fixed deposit made in the name of the petitioner, with similar terms and with endorsement from the banker stating that the FD shall not be encumbered or redeemed without the permission of the concerned trial Court, or until the surety bond has been discharged.

15. 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)	

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

17. 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.

18. The significant consideration for granting bail is that the Court aims to give the petitioner another chance to course-correct, reform, and reintegrate into the community as an ideal citizen. To ensure that the petitioner also abides by the assurance made on the petitioner's behalf by not repeating the offence or indulging in any crime, it shall be desirable to impose the following additional condition.

19. This bail is conditional, with the foundational condition being that if the petitioner

repeats the offense or commits any non-bailable offense which provides for a sentence of imprisonment for more than seven years, the State shall file an application to revoke this bail before the Special Judge/ Sessions Court having jurisdiction over this FIR, which shall have the authority to cancel this bail, and as per their discretion, they may cancel this bail.

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

21. It is clarified that this bail order shall not be considered as a blanket bail order in any other matter and is only limited to granting bail in the FIR mentioned above.

22. In Amit Rana v. State of Haryana, CRM-18469-2025 [Decided on 05.08.2025], in CRA-D-123-2020], a Division Bench of Punjab and Haryana High Court in paragraph 13, holds that “To ensure that every person in judicial custody who has been granted bail or whose sentence has been suspended gets back their liberty without any delay, it is appropriate that whenever the bail order or the orders of suspension of sentence are not immediately sent by the Registry, computer systems, or Public Prosecutor, then in such a situation, to facilitate the immediate restoration of the liberty granted by any Court, the downloaded copies of all such orders, subject to verification, must be accepted by the Court before whom the bail bonds are furnished.”

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

(ANOOP CHITKARA)
JUDGE

30.09.2025
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Whether speaking/reasoned: Yes
Whether reportable: No.