

CRM-M-59110-2024

211

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

CRM-M-59110-2024
Decided on: 07.01.2025

Balbir Singh

...Petitioner

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MR. JUSTICE ANOOP CHITKARA

Present: Mr. D.S. Virk, Advocate
for the petitioner.

Mr. Sukhdev Singh, AAG, Punjab.

ANOOP CHITKARA, J.

FIR No.	Dated	Police Station	Sections
110	12.10.2024	Shambu, District Patiala	318(4), 306, 338, 341(2), 61(2) of BNS

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 7 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:

“3. That it is respectfully submitted that the present case/FIR No. 110 (supra) was registered pursuant to the statement of Tarun Lohda (complainant) recorded before ASI Harwinder Singh on 12.10.2024, wherein he stated that he was running a factory under the name and style of Neha Enterprises (GTC Transport) at village Dahriya, P.S. Shambhu, District Patiala. He hired one Rahul Soni in the year 2022-23 at his factory, who used to look after the work of his vehicles of GTC Transport and used to do the work of filling fuel in the vehicles. Rahul Soni worked with him till December 2023 and thereafter, he left the job. That upon checking the record of transport and tallying the accounts, the complainant found misappropriation in his accounts. The complainant's account was functional at Petrol Pump Highway Services at village Shambhu Khurd as regards filling fuel in his vehicles and upon verifying thoroughly, he came to know that many receipts were missing from the booklet. When the complainant verified at his own level, he came into light that Rahul Soni in connivance with Balbir Singh (present petitioner) and

CRM-M-59110-2024

one Kali had stolen some of the booklets for filling the fuel. They prepared a fake seal of his GTC company and they affix the same on the abovementioned receipts and they also forged the signatures of Gurinder Singh, Manager of his factory and they had been getting fuel filled in heavy quantities in other vehicles by installing fake number plates of vehicles of GTC transport. They also installed fake number plates of their vehicle bearing registration No. PB-11-CA-5670 on another vehicle bearing registration No. HR-63-7580 and they were filling fuel through the abovementioned booklet. In this way, Rahul Soni in connivance with Balbir Singh (petitioner) and Kali had committed theft, forgery and cheating by stealing fuel booklets of diesel oil and prepared fake stamp by forging signatures of the manager and also installed fake number plates on the other vehicles. Hence, a present case/FIR was registered against aforementioned Rahul Soni, Balbir Singh (petitioner) and Kali for the offences under Section 318(4), 306, 338, 341(2), 61(2) of BNS 2023.”

4. Petitioner’s counsel submits that it is not a case for custodial interrogation and he undertakes to join investigation as and when called upon to do so. He further submits that Rahul Soni is main accused and the evidence against the petitioner is only disclosure statement of co-accused which is inadmissible in law. The 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.

5. The State’s counsel opposes bail and submits that they need custodial interrogation to unearth the scam and the petitioner is not entitled to bail.

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

“5. ROLE OF PETITIONER: - That the petitioner used to refuel his truck by using the booklet of the complainant's company after installing fake number of complainant's transport company vehicle on his truck.

6. EVIDENCE AGAINST PETITIONER: That the name petitioner was specifically mentioned by the complainant in his statement. Moreover, co-accused Kala Singh alias Kala has also disclosed about the involvement of petitioner in his disclosure statement.

7. Although there is sufficient prima facie evidence connecting the petitioner with the alleged offence but considering that the petitioner is first offender and over all assessment of the nature of crime and the likely financial loss, it is not a case for custodial interrogation or pre-trial incarceration.

8. 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-

CRM-M-59110-2024

trial incarceration.

9. The Police did not arrest the petitioner; if they intended to arrest the petitioner, it was not impossible. A perusal of the reply does not point out the steps taken to arrest the accused.

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, subject to the compliance of terms and conditions mentioned in this order. 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.	
3.	Mobile number (If available)	
4.	E-Mail id (If available)	

14. 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.

15. 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,

CRM-M-59110-2024

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.

16. 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.

17. 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.

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

19. 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.

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

(ANOOP CHITKARA)
JUDGE

07.01.2025
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Whether speaking/reasoned: Yes
Whether reportable: No.