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

CRM-M-55762-2024

Date of Decision: 14.01.2025

Karamvir

...Petitioner

Versus

State of Haryana

...Respondent

CORAM: HON'BLE MR. JUSTICE ANOOP CHITKARA

Present: Mr. Rohit Singh, Advocate,
for the petitioner.

Mr. Naveen Kumar Sheoran, D.A.G., Haryana.

ANOOP CHITKARA, J.

FIR No.	Dated	Police Station	Sections
317	14.09.2024	I.M.T. Rohtak, District Rohtak (Haryana)	406, 420 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 15 of the bail petition, the accused declares that he has no criminal antecedents.

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

"2. That the facts of the case are that the complainant Harender S/o Sh. Ram Karan, aged 45 years R/O V.P.O.-Bhalot, Bhalaut, Rohtak filed a complaint U/s 156 (3) Cr.P.C. before Ld. Illaqa Magistrate, Rohtak for registration of FIR against Karamvir S/o Sh. Jai Narain 2. Jagmender S/o Sh. Jai Narain Both residents of Village Polangi, Tehsil and District Rohtak under sections 120-B, 406, 409, 420, 379-A, 506, 34 of IPC with the averments that complainant is running a shop at Bus Stand Bhalaut. They are two brothers and name of his younger brother is Manoj who is employed with DTC. The complainant had started the shop in the year 2001 and the accused named Karamvir and Jagmender (Mentioned as Jogender in original complaint as he used to be called Jogender popularly) used to come to the shop of complainant since 7-8 months due to which



the said accused were acquainted with the complainant. The accused told the complainant that they have deployed 18 vehicles with Om Logistic Company and there is income in excess of Rs. 50,000/- per month on one vehicle and induced the complainant that if the complainant gives them money, they will deploy his one vehicle in their name and they will give the entire income of said vehicle to complainant. Induced and lured by their sweet talk the complainant agreed and they told the complainant that five new vehicles chassis for fabrication of body in Jind and they will get registered one of those vehicles in the name of complainant and will get the said vehicle deployed with Om Logistics Company but the complainant will have to pay installment of loan of said vehicle of Rs.19,50,000/- and Rs.5,00,000/- as expenses incurred on fabrication of body, registration fees, permit fees and insurance etc. Under the influence of their sweet talk, the complainant paid the amount Rs.5,00,000/- to the said persons on 24-11-2021 and they sold truck Eicher 3019 Pro Model Engine No. 351109 Chasis No. 071485 to the complainant and gave their affidavit and delivered the truck to the complainant. Thereafter, they demanded more money from the complainant for making advance payment of bank installments and the complainant sent an amount of Rs.5,00,000/- through RTGS from his bank account to bank account of Karamvir Singh. Other than this, the complainant kept sending money in bank account of Karamvir as per demands of Karamvir and his brother Jagmender and even paid two other loan installments in their bank account i.e. Rs.35,000/- on 19-11-2021, 15,000/- on 21-11-2021 and amount of one installment on 31-12-2021. The complainant deposited an amount of Rs.1,71,700/- from 25-12-2021 to 21-01-2022 and paid an amount of Rs.1,10,000/- in cash on 09-12-2021 to Jagmender. In the meantime, the body of truck was fabricated and the truck was deployed with Om Logistic Company and the truck was got registered with registration number HR-46F-9946 but by playing fraud on the complainant, the aforesaid brothers got the truck registered in their name and employed Saddam Hussain as driver on the truck. The truck worked with Om Logistic on four circles and Om Logistic makes payment of fare @ Rs.31.27 per KM. On first circle, the truck drove for 2887 KM, in second 3000 KM, in third 2500 KM and in fourth 2500 KM and the said Karamvir and Jagmender embezzled the aggregate fare of Rs.2,31,566/ approx after receiving the said amount from Om Logistics. For running of this truck the complainant deposited an amount of Rs.92,000/- from 24-12-2021 to 21-01-2022 in fastag account



for toll and in account of driver Saddam Hussain but the money received from Om Logistics was received in bank account of Karamvir which was embezzled by him. Karamvir also got deposited an amount of Rs.66454/- in fastag account of his another truck no. HR-46F-5429 and in bank account of mother of driver of said truck from the complainant but did not return the said amount also. The above named two brothers have defrauded the complainant a sum of about 15-16 Lakhs and have snatched the truck forcibly from the complainant and now they are threatening to kill the complainant and his family members. The complainant gave his complaint to the S.H.O. P.S IMT Rohtak and to Superintendent of Police, Rohtak vide complaint dated 17-02-2022 but no action has been taken in the matter despite the fact that the accused have committed very serious economic offences which are cognizable. Thereafter the complainant filed the complaint U/s 156 (3) Cr.P.C. before Ld. Illaga Magistrate, Rohtak for registration of FIR and as per directions of the Ld. Illaqa Magistrate, Rohtak a case vide FIR No.317 dated 14.09.2024 u/s 406, 420 IPC was registered at Police Station IMT, Rohtak.”

4. Counsel for the petitioner has referred to Annexure P-2 which is an affidavit and the same be reads as follows:

“xxx xxxx

I, Harendra son of Shri Ramkaran Niwali village Bhalauth Tehsil Rohtak state that:

1. That I have purchased the vehicle new Issar 3019 model 2021 engine number 351109, Chasi number 071485 from Shri Karmaveer son of Shri Jayanarayan Niwali Polangi tehsil, district Rohtak on 24-11-2021. I will repay the loan taken on the vehicle from IndusInd Bank on time, in the event of non payment owner Karmveer or the bank will take over the vehicle from me.

2. That apart from the loan amount for this vehicle, Rs.5 lakh in cash has been paid to owner Mr. Karmveer. Besides this I will pay the loan.

3. The cost of vehicle registration and permit would be borne by Karamvir. After today I shall be responsible for the challan, police case, accident, rest of the papers will be made later on after issuance of registration number.

xxx xxxx”

5. 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 his family.

6. The State's counsel opposes bail and refers to the status report.

7. It would be appropriate to refer to the following portions of the status report, which read as follows:

"4. That the specific role of the petitioner is that the complainant has purchased the truck on affidavit basis and has paid around 15/16 lakhs to the petitioner for the payment of loan installments with the bank and he had in fact paid some part of the said money directly into the account of the bank of petitioner and he had also paid the amount of Fast tag affixed on the said truck while crossing the toll plaza in the account of driver Saddam Hussain. Meaning thereby the registration number and the loan or the right to possession and to drove the vehicle was with the complainant. But the petitioner has neither given any amount for running of the said truck, so his intention to cheat was there since the beginning."

8. The analysis of the above, it is not make a case for custodial interrogation and pre-trial incarceration.

9. 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.

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. 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.

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

15. 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.

16. 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.

17. 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.

18. 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.

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

20. 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.

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

(ANOOP CHITKARA)
JUDGE

14.01.2025
Jyoti-II

Whether speaking/reasoned: Yes
Whether reportable: No.