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PUNJAB AND HARYANA HIGH COURT

SINGLE BENCH

(Before : Sumeet Goel, J.)

RAJESH GUPTA

Vs.

STATE OF HARYANA

Criminal Miscellaneous (M) No 40405 of 2026

Decided on : 03-08-2026

A. Bharatiya Nagarik Suraksha Sanhita, 2023 — Section 483 (Indian Penal Code, 1860 — Sections 201, 406, 420, 467, 468) — Regular Bail in Commercial Fraud Case — In a prosecution under Sections 406, 420, 467, 468, and 201 IPC alleging cheating and forgery on the pretext of procuring an overseas work visa, where the accused-petitioner has undergone incarceration for nearly three months, the investigation is complete, the charge-sheet/challan stands filed, and the trial is a Magisterial trial with 13 witnesses cited but none examined, further detention of the undertrial is not warranted — Regular bail granted subject to stringent conditions. (Paras 1, 3, 6, 7)

B. Bharatiya Nagarik Suraksha Sanhita, 2023 — Section 483 — Criminal Procedure — Principles Governing Grant of Bail — Impact of Criminal Antecedents — Antecedents of an accused are a relevant consideration while evaluating a regular bail application, but the mere pendency of other cases—specifically complaints under Section 138 of the Negotiable Instruments Act, 1881—cannot by itself be a sufficient ground to deny regular bail when a clear case for bail is made out on the facts and circumstances of the case in hand — (Maulana Mohd. Amir Rashadi v. State of U.P., Sridhar Das v. State, and Balraj v. State of Haryana relied on). (Para 6.1)

JUDGMENT

Sumeet Goel, J. Present petition has been filed under Section 483 of the Bharatiya Nagarik Suraksha Sanhita, 2023 (for short 'BNSS') for grant of regular bail to the petitioner in case FIR No.330 dated 22.11.2024 under Sections 406, 420, 467, 468, 201 of the IPC, registered at Police Station Urban Estate, Hisar.

2. The case set up in the FIR in question (as set out in the present petition by the petitioner) is as follows:-

"Complaint No. 8165-PU dated 19.10.2024 has been received through Post at th

e Police Station, which is as under, To Superintendent of Police, Police Station-Hisar. Subject: Application for getting a case registered and legal action taken against: 1. Rajesh Gupta son of Mr. Ramesh Chand Gupta resident of House No. 1195, Ananda B-1, S.B.P. Homes, Dera Bassi, District Mohali, Punjab, Mobile No. 842044179 Sir, the request is that I Suresh Sharma son of Mr. Omprakash Sharma resident of House No. 927-A/30, Ward No. 15, Subhash Nagar, Hisar Tehsil and District Hisar, am a peace-loving and law-abiding citizen and I request you the following:

1. That the applicant who is working as M.R.D. technician in Jindal Hospital, Hisar and the applicant's wife Smt. Radha Sharma runs a PG in Subhash Nagar, Hisar.

2. That in December 2022, the above- mentioned accused Rajesh Gupta came to stay at my wife's said PG for some time and during this time he told that he arranges work visas abroad and has an office in PLA Hisar and he told the applicant's wife that if you want to send your son Kartik Sharma abroad on a work visa, then I can get this work done for you at a very low cost.

3. That he spent a long time in our PG and we had a good conversation and in June 2023, believing the words of the accused, we fell into his trap and agreed to send our son Kartik Sharma to Netherlands on work visa and for this work the accused demanded about 10 lakh rupees from us, which my wife Radha Sharma gave in the account mentioned by the accused on different occasions, respectively on 03.07.2023 Rs. 1,00,000/-, on 04.07.2023 Rs. 1,00,000/-, on 'Date 3,50,000/-, on 22.11.2023 Rs. 1,50,000/- and on 13.12.2023, Rs. 3,85,000/- in cash to the accused, thus the total amount was Rs. 10,85,000/- taken from us. 4. After this the accused told us that due to some reasons I cannot get your son's work visa in Netherlands because the government there has stopped giving work visas and now I will get your son a work visa in New Zealand and the salary there will also be higher than Netherlands. On which we agreed to his words and after that he took the necessary documents of our Karthik from us and applied for a new file for New Zealand work visa. And after this, in January 2024, the accused told us that he has been promoted and now he has been transferred to Chandigarh Head Office, hence he left PG.

5. That on repeatedly contacting the accused regarding the said work visa, he kept taking time, sometimes 10, sometimes 15 days, and kept making excuses and on 5/6 June 2024, the accused came to my wife's above mentioned P.G. and brought with him the so-called work visa of New Zealand and said that I have got the work done for your son and now you go to Delhi airport and collect your ticket from the airport. When we got the work visa verified online the same evening, we found that the work visa given by the accused was fake and we felt cheated. On which we expressed our objection to the accused on 7th June 2024 and asked for the return of the said amount of Rs 10,85,000/- given to him, then the accused accepted to pay almost this amount and admitted his mistake and

approximately Rs. 85,000/- were sent to our account in different transactions and also assure the remaining Rs. 10 lakh will also be sent soon.

6. That after this the accused, in order to avoid the liability of the outstanding amount of Rs 10 lakh, told us that if I get a genuine work visa for Luxembourg for your son for the same amount, would you have any objection?, on which we agreed, thinking that our outstanding amount would not be wasted. But till date the accused has not provided us any Luxembourg work visa nor is he returning our outstanding amount of Rs 10 lakh despite repeated demands.

7. That on 07 October 2024, the applicant, his wife Radha Sharma and son Kartik Sharma and Vinod Kumar son of Shri Sadhuram, resident of house no. 721, ward no. 10, Shiv Nagar Hisar, go to the above address of the accused to collect their dues as per his request. When they reached there, the accused said that I will accompany you to our office in Hisar and one of my friends has made the arrangement of your outstanding amount of Rs 10 lakh there. I will go there and get you 10 lakh rupees and the accused left for Hisar sitting in our car with us and on the way he also made calls to one or two places regarding money and we sat at Kalu's dhaba under Kaithal bridge. Had tea and there also he kept talking to some people on the phone.

8. That when we reached near Surewala Chowk, the accused made an excuse that the payment from Hisar would not be received as it and would take a day or two, hence I will give you three cheque from my account after filling in the amount and signing it and by saying this that three checks No. 141006, 141007 and 141008 payable at Axis Bank Ltd. Gurugram branch for the amount of Rs. 4 lakh, Rs. 4 lakh and Rs. 2 lakh respectively and dated 16.10.2024 were filled and handed over to us under signature. Because the accused had assured that at present there is not much money in my above account and I will deposit sufficient amount in the account by 15.10.2024, hence you should get this check encashed by depositing it in your account on 16.10.2024. On which we again got into his words and we left him at Surewala Chowk as per his instructions and even after 08/10/2024, the accused was continuously talking to the applicant's wife on mobile and giving the same assurance again and again. We hope that he will soon return our outstanding amount of Rs 10 lakh, against which a requirement can be presented regarding call recording.

9. That after this we got a call from the police from Dera Bassi police station on 15/10/2024 and the police told us that the accused Rajesh Gupta has given a complaint against you that you had kidnapped him, beat him up and left him at Surewala Chowk, please come to the police station and present your side regarding this matter. On which we have sought some time from the police and as per the statement of the accused, the applicant deposited the said cheques given by him in his account on 16.10.2024, but on reaching the bank on 17.10.2024, the said cheque were bounced, on which the applicant On 18.10.2024, through his lawyer, sent a legal notice regarding the above cheque bounce to the above address of the accused at by Registered Post.

10. That the accused, as part of a well-planned conspiracy to avoid the liability of the outstanding amount of Rs. 10 lakh, made the pretext of returning the outstanding amount of Rs. 10 lakh by accompanying us to his office in Hisar and then as per his plan, came to Surewala Chowk in our car. By pretending to have created false evidence against us, a complaint has been lodged in Dera Bassi police station based on the said false facts. Which has nothing to do with truth. Therefore, it is a humble request to you that on the basis of the above facts, a criminal case should be registered against the above accused, he should be arrested with immediate effect and the strictest legal action should be taken and the applicant's outstanding amount of Rs 10 lakh should be recovered and the applicant and his family should be protected from getting trapped in any false case. It will be so kind of you. Dated: 19.10.2024 SD/-SURESH SHARMA 98966-32582 Applicant Suresh Sharma, son of Shri Omprakash Sharma, resident of House No. 927-A/30, Ward No. 15, Subhash Nagar, Hisar Tehsil and District Hisar. Mob. No. 98966-32582 today at Police Station: A complaint no. 8165-PU Dated 19-10-2024 from Office of the Superintendent of Police, Hisar received from the Economic Offenses Wing, Hisar to in the police station and after perusal it was found to be a crime under Section 406, 420,467,468, IPC, and this case was registered as a copy of the original complaint with the documents will be sent to IC PP UE-II Hisar for further investigation. The hard copy will be sent by post to the service of higher officials. SHO sir was informed. This case was registered in the presence of duty officer SI Randhir Singh 439/H."

3. Learned counsel for the petitioner has argued that the petitioner is in custody since 02.05.2026. Learned counsel has further argued that the petitioner has been falsely implicated into the FIR in question primarily on account of money dispute. Learned counsel has further submitted that the petitioner, in order to secure his freedom, has already paid Rs. 6 lakhs out of the total due amount of Rs.10 lakhs. Learned counsel has further submitted that upon culmination of investigation qua the petitioner, challan already presented qua the petitioner. Learned counsel has further reiterated that the petitioner is a man aged about 50 years and is the sole breadwinner of his family. Thus, regular bail is prayed for.

4. Learned State counsel has opposed the present petition by arguing that the allegations raised are serious in nature and thus the petitioner does not deserve the concession of regular bail. Learned State counsel seeks to place on record custody certificate dated 02.08.2026 in Court, which is taken on record.

5. I have heard counsels for the parties at length and have gone through the available records of the case.

6. The petitioner was arrested on 02.05.2026 and is in continuous custody since then. It is not in dispute before this Court that, upon the culmination of the investigation, the challan already stands filed on 05.06.2026. Total 13 prosecution witnesses have been cited but none has been examined till date. The trial emanating from the FIR in question is a Magisterial one. Before delving into the matter in hand, it would be apposite to refer herein to a judgment of the Hon'ble Supreme Court titled as **Gudikanti Narasimhulu and others vs. Public Prosecutor, High Court of Andhra Pradesh AIR 1978 Supreme Court 429**. Keeping in view the entirety of the factual milieu of the case in

hand, especially there being debatable issues to be ratiocinated upon during the course of the trial, and the charge-sheet having already been filed. Nothing tangible has been brought forward to indicate the likelihood of the petitioner absconding from the process of justice or interfering with the prosecution evidence.

6.1 As per custody certificate dated 02.08.2026 filed by learned State counsel, the petitioner has already suffered incarceration for a period of 2 months and 29 days & the petitioner is not involved in any other case under the IPC/BNS; however, he is stated to be involved in 3 cases under Section 138 of the Negotiable Instruments Act. Indubitably, the antecedents of a person are required to be accounted for while considering a regular bail petition preferred by him. However, this factum cannot be a ground sufficient by itself, to decline the concession of regular bail to the petitioner in the FIR in question when a case is made out for grant of regular bail qua the FIR in question by ratiocinating upon the facts/circumstances of the said FIR. Reliance in this regard can be placed upon the judgment of the Hon'ble Supreme Court in **Maulana Mohd. Amir Rashadi v. State of U.P. and another, 2012 (1) RCR (Criminal) 586; a Division Bench judgment of the Hon'ble Calcutta High Court in case of Sridhar Das v. State, 1998 (2) RCR (Criminal) 477 & judgments of this Court in CRM-M No.38822-2022 titled as Akhilesh Singh v. State of Haryana, decided on 29.11.2021, and Balraj v. State of Haryana, 1998 (3) RCR (Criminal) 191.**

Suffice to say, further detention of the petitioner as an undertrial is not warranted in the facts and circumstances of the case.

7. In view of above, the present petition is allowed. Petitioner is ordered to be released on regular bail on his furnishing bail/surety bonds to the satisfaction of the Ld. concerned CJM/Duty Magistrate. However, in addition to conditions that may be imposed by the concerned CJM/Duty Magistrate, the petitioner shall remain bound by the following conditions:-

(i) The petitioner shall not mis-use the liberty granted.

(ii) The petitioner shall not tamper with any evidence, oral or documentary, during the trial.

(iii) The petitioner shall not absent himself on any date before the trial.

(iv) The petitioner shall not commit any offence while on bail.

(v) The petitioner shall deposit his passport, if any, with the trial Court.

(vi) The petitioner shall give his cell-phone number to the Investigating Officer/SHO of concerned Police Station and shall not change his cell-phone number without prior permission of the trial Court/Illaqa Magistrate.

(vii) The petitioner shall not in any manner try to delay the trial.

8. In case of breach of any of the aforesaid conditions and those which may be imposed by concerned CJM/Duty Magistrate as directed hereinabove or upon showing any other sufficient cause, the State/complainant shall be at liberty to move for cancellation of bail of the petitioner.

9. Ordered accordingly.

10. Nothing said hereinabove shall be construed as an expression of opinion on the merits of the case.