



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

297

CRM-M-24852-2026 (O&M)

Date of decision : 13.05.2026

Mohd. Toshik

..... Petitioner

VERSUS

State of U.T. Chandigarh

..... Respondent

CORAM: HON'BLE MR. JUSTICE SURYA PARTAP SINGH

Present : Mr. Shakti Mehta, Advocate for the petitioner.

Mr. Manish Bansal, P.P. U.T. Chandigarh.

SURYA PARTAP SINGH, J.

This petition for bail is the first petition, filed by the petitioner under Section 483 of 'the Bharatiya Nagarik Suraksha Sanhita, 2023'. It has been filed with regard to a case arising out of FIR No.13 dated 18.01.2026, for the commission of offence punishable under Sections 112(2), 317(2), 61(2) of Bharatiya Nyaya Sanhita, 2023, Police Station Cyber Crime, Chandigarh.

2. The abovementioned FIR came into being at the instance of a police officer. According to contents of FIR, in order to check the cyber fraud, when several bank accounts, being operated in the jurisdiction of Chandigarh Police, were analyzed, it was found that in the account of petitioner, there were illegal transaction, i.e. transaction of money, which was the subject matter of some fraud played with the innocent persons, namely 'Pranav Dhamal' and 'Sahil Kakkar', residents of Pune and Fazilka, respectively. According to FIR, from the account of 'Pranav Dhamal',



Rs.2,75,166/- and from the account of 'Sahil Kakkar', Rs.2,51,565/- were received in the account of petitioner, which was withdrawn by the petitioner.

3. It is the case of prosecution that in view of abovementioned transactions, formal FIR of this case was lodged and the investigation taken up.

4. **Notice of motion.**

5. Mr. Manish Bansal, P.P. U.T. Chandigarh appears on behalf of respondent-U.T. Chandigarh. Hence service of notice upon the State is hereby dispensed with. The learned U.T. Counsel has filed custody certificate of the petitioner. The same be taken on record. No formal reply has been filed by the State. However, the learned U.T. Counsel has orally opposed the present petition.

6. Heard.

7. The record has been perused carefully.

8. A perusal of record shows that in the present case, following are the relevant factors which are required to be taken into consideration for a decision: -

- i) that the offence is triable by the Court of Judicial Magistrate;
- ii) that the petitioner is already in custody for a period of three months and twenty five days;
- iii) that the petitioner has clean antecedents;
- iv) that any complainant has not approached the Chandigarh Police complaining that he has been subjected to any fraud or theft;



- v) that nothing has been left to be recovered from the possession of petitioner;
- vi) that the investigation and trial are not likely to be concluded in near future;
- vii) that the detention of the petitioner in judicial lockup is not likely to serve any purpose;
- viii) that there is nothing on record to show that if released on bail, the petitioner may tamper with the evidence or influence the witnesses; and
- ix) that there is nothing on record to show that if released on bail, the petitioner will not participate/cooperate in the trial.

9. In the present case, the principles of law laid down by the Hon'ble Supreme Court of India in the case of "Dataram versus State of Uttar Pradesh and another", 2018(2) R.C.R. (Criminal) 131, are also relevant, wherein it has been observed that "a fundamental postulate of criminal jurisprudence is the presumption of innocence, meaning thereby that a person is believed to be innocent until found guilty. However, there are instances in our criminal law where a reverse onus has been placed on an accused with regard to some specific offences but that is another matter and does not detract from the fundamental postulate in respect of other offences. Yet another important facet of our criminal jurisprudence is that the grant of bail is the general rule and putting a person in jail or in a prison or in a correction home (whichever expression one may wish to use) is an exception. Unfortunately, some of these basic principles appear to have been lost sight of with the result that more and more persons are being incarcerated and for longer periods. This does not do any good to our



criminal jurisprudence or to our society. There is no doubt that the grant or denial of bail is entirely the discretion of the judge considering a case but even so, the exercise of judicial discretion has been circumscribed by a large number of decisions rendered by this Court and by every High Court in the country. Yet, occasionally there is a necessity to introspect whether denying bail to an accused person is the right thing to do on the facts and in the circumstances of a case”.

10. The principles laid down by the Hon’ble the Supreme Court of India in the case of ‘Satender Kumar Antil Vs. Central Bureau of Investigation and Another’, (2022) 10 SCC 51, are also relevant in this case. In the abovementioned case, it has been observed that “the rate of conviction in criminal cases in India is abysmally low. It appears to us that this factor weighs on the mind of the Court while deciding the bail applications in a negative sense. Courts tend to think that the possibility of a conviction being nearer to rarity, bail applications will have to be decided strictly, contrary to legal principles. We cannot mix up consideration of a bail application, which is not punitive in nature with that of a possible adjudication by way of trial. On the contrary, an ultimate acquittal with continued custody would be a case of grave injustice”.

11. Recently, in the case of ‘Tapas Kumar Palit Vs. State of Chhattisgarh’, 2025 SCC Online SC 322, the Hon’ble Supreme Court of India has observed that “if an accused is to get a final verdict after incarceration of six to seven years in jail as an undertrial prisoner, then, definitely, it could be said that his right to have a speedy trial under Article 21 of the Constitution has been infringed”. It has also been observed by the



Hon'ble Supreme Court of India in the abovementioned case that “delays are bad for the accused and extremely bad for the victims, for Indian society and for the credibility of our justice system, which is valued. Judges are the masters of their Courtrooms and the Criminal Procedure Code provides many tools for the Judges to use in order to ensure that cases proceed efficiently”.

12. To elucidate further, this Court is conscious of the basic and fundamental principle of law that right to speedy trial is a part of reasonable, fair and just procedure enshrined under Article 21 of the Constitution of India. This constitutional right cannot be denied to the accused as mandated by Hon'ble Apex court in “Balwinder Singh versus State of Punjab and Another”, 2024 SCC Online SC 4354.

13. If the cumulative effect of all the abovementioned factors, involved in the instant case, is taken into consideration, it leads to a conclusion that the petitioner is entitled for the benefit of bail, and that the present petition deserves to be allowed.

14. Accordingly, without commenting anything on the merits of the case, the present petition is hereby **allowed**. The petitioner is hereby ordered to be released on bail on furnishing personal bond and surety bond(s) to the satisfaction of learned trial Court. However the abovementioned concession shall be subject to following conditions:-

- (i) that the petitioner shall not directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of the case, so as to dissuade him to disclose such facts to the Court or to any other authority;



- (ii) that the petitioner shall at the time of execution of bond, furnish the address to the Court concerned and shall notify the change in address to the trial Court, till the final decision of the trial; and
- (iii) that the petitioner shall not leave India without prior permission of the trial Court.

(SURYA PARTAP SINGH)
JUDGE

13.05.2026

Gaurav Thakur

Whether speaking / reasoned
Whether Reportable

Yes/No
Yes/No