

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

CRM-M-41430-2024
Reserved on: 13.01.2025
Pronounced on: 30.01.2025

...Petitioner

Versus

...Respondent

CORAM: HON'BLE MR. JUSTICE ANOOP CHITKARA

Present: Mr. Ripudaman Singh Sidhu, Advocate
For the petitioner(through V.C.).

Mr. Sukhdev Singh, AAG, Punjab.

Mr. B. S. Jaswal, Advocate
For the complainant.

ANOOP CHITKARA, J.

FIR No.	Dated	Police Station	Sections
0069	24.07.2024	NRI, District Police Commissionerate, Amritsar	406, 420, 120-B IPC and Section 24 of the Immigration Act

1. The petitioner apprehending arrest in the FIR captioned above has come up before this Court under Section 438 of the Code of Criminal Procedure, seeking anticipatory bail.
2. In paragraph 12 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 the brief and relevant facts of the case are that the aforesaid FIR No. 69 dated 24.07.2024 was registered against the petitioner and co-accused Bikramjit Singh as per the directions of the Additional Director General of Police (N.R.I Wing), Chandigarh after taking a legal opinion from the District Attorney (NRI Wing), Mohali pursuant to a recommendation made by the deponent vide detailed enquiry report No. 2150-5AP dated 02.07.2024 in his office after verifying the facts alleged the complainant Amrinder Singh son of Kulwinder Singh in his complaint No. UID-2407080 dated 28.05.2024. The complainant had alleged in his aforesaid complaint that he had sent a

sponsorship letter to his friend Yadwinder Singh for tourist visa of Canada and Yadwinder Singh approached Varun Partap Singh, Owner of Global Skyline, Amritsar, for the preparation of documents to proceed further for submission of his file and Varun Partap Singh gave him an assurance to arrange the Canadian visa and took Rs. 1,50,000/-from him for that purpose. He further alleged that on 17.04.2024, he received a telephonic call from the Canadian Immigration Authorities to enquire whether he (Amrinderpal Singh) had sponsored Amit Kumar on a tourist visa and upon enquiring on his own, he came to know that Varun Partap Singh had committed cheating with him by tampering the sponsorship letter and fraudulently got issued the visa of Amit Kumar instead of Yadwinder Singh in connivance with the other co-accused. The detailed facts mentioned by him in aforesaid complaint have been reproduced in the true translation of the FIR No. 69 dated 24.07.2024 attached with the petition as Annexure P-1, which may kindly be read as part of the present paragraph as same are not repeated here for the sake of brevity.”

4. 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 State's counsel opposes bail and refers to the reply.

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

“Role of the petitioner and evidence against him.

5. That as per the prosecution version, the petitioner along with the co-accused Bikramjit Singh has cheated the complainant by tampering with the sponsorship letter sent by him to his friend Yadwinder Singh for issuance of Canadian tourist visa and they fraudulently send Amit Kumar to Canada instead of Yadwinder Singh by forging the documents after hatching a criminal conspiracy with each other. Moreover the petitioner has himself admitted in his statement during the enquiry that Amit Kumar was his client and he has done all the formalities relating to sending him to Canada.”

7. Although there is sufficient but given the nature of the allegations and more importantly that the petitioner is first time offender this Court wants to give one opportunity to the petitioner to live an honest and truthful life. For this reason this Court is not denying the anticipatory bail to the petitioner with clarification that the if the petitioner does not mend his ways and does not behave and live like an honest citizen, the Courts while considering his second bail application may keep in mind that the petitioner was granted one chance but he did not mend his ways and continued to indulge in cheating etc.

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-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. 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. 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.

12. 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)	

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

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, 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 shall 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

30.01.2025
M.Sikka

Whether speaking/reasoned: Yes
Whether reportable: No.