

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

CRM-M-9447-2021(O&M)

Date of decision:-20.8.2021

Avtar Singh Mundi

...Petitioner

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MR.JUSTICE H.S.MADAAN

Present: Mr.Mohd.Yousaf, Advocate
for the petitioner.

Ms.Bhavna Gupta, DAG, Punjab.

H.S. MADAAN, J.

Case taken up through video conferencing.

This fourth petition for regular bail has been filed by petitioner – Avtar Singh Mundi, aged about 52 years – an accused in FIR No.199 dated 3.10.2019 for the offences under Sections 406, 420 IPC, Section 13 of Travel Professional (Regulation) Act, 2014 and Section 24 of Immigration Act, 1983, registered with Police Station Goraya Jalandhar, District Jalandhar.

The petitioner had filed similar three petitions in this Court earlier, two of which were withdrawn. However, the third one bearing CRM-M-23362-2020 was dismissed vide a detailed order dated 26.10.2020.

Briefly stated, the facts of the case as per the prosecution version are that criminal machinery in this case was set into motion by complainant Kirandeep Kaur wife of Baljinder Singh, resident of VPO Virk, Bahadipur, Tehsil Phillaur, District Jalandhar, who in the written complaint submitted by her addressed to SSP, Jalandhar (R) sought taking of action against travel agent Avtar Singh Mundi (present petitioner), his wife - Baljit Kaur, son - Ranjot Singh and daughter - Manpreet Kaur for committing fraud with her to the tune of Rs.21.50 lakhs on the pretext of sending her son Sukhpreet Singh to Canada. Inter alia, in the complaint, the complainant submitted that the accused could not ensure migration of her son to Canada, rather he was taken to Vietnam and left in a lurch there. The complainant and her family arranged his return to India. They asked the the accused to refund the money to them and accused returned Rs.2 lakhs and gave cheque dated 7.6.18 in the sum of Rs.2 lakhs, which had got bounced leaving an unpaid amount of Rs.19.50 lakhs.

On receipt of that complaint, the matter was inquired into by Economic Offences Wing, Jalandhar and the allegations in the complaint were found to have force against Avtar Singh Mundi and his wife Baljeet Kaur to the extent of cheating the complainant of Rs.10 lakhs for sending her son Sukhpreet Singh abroad, whereas it was not so with regard to Ranjot Singh – son and Manpreet Kaur - daughter of Avtar Singh Mundi and Baljeet Kaur. Formal FIR in the matter was registered. Petitioner Avtar Singh Mundi was arrested in this case on 17.11.2019. After completion of investigation and other formalities, challan in this case has been filed and trial is going on. The petitioner had filed an application for

regular bail in the Court of Sessions, which was however dismissed by learned Additional Sessions Judge, Jalandhar vide order dated 21.7.2020. The petitioner had approached this Court on two earlier occasions seeking regular bail but had withdrawn those petitions. For the third time, the petitioner had knocked at the door of this Court by way of filing a similar petition, which was declined vide a detailed order dated 26.10.2020. The petitioner/accused has come to this Court for the fourth time seeking regular bail.

I have heard learned counsel for the parties besides going through the record and I find that the petition is bound to fail.

In the earlier petition i.e. CRM-M-23362-2020, which was dismissed vide a detailed order dated 26.10.2020, it was noticed that petitioner/accused is in habit of committing crime inasmuch as he is involved in 20 other similar cases and out of those cases, he has been convicted in three of them. The contention of learned counsel for the petitioner/accused that petitioner has been acquitted in 17 cases was noticed. But acquittal in criminal cases does not mean that all those cases get vanished in the air. After an accused is nominated in a criminal case, the matter is investigated by the police and if the investigating agency finds sufficient evidence warranting an accused to be forwarded to the Court to face trial, only then it is so done, otherwise a cancellation report or untraced report is prepared in the matter, which is sent to the Court for approval. It has to be noticed that as per principles of criminal law prevalent in this country, the prosecution is required to prove guilt of the accused beyond a shadow of reasonable doubt and benefit of doubt goes

to the accused. Many a times on account of shoddy investigation, the accused managing to influence the prosecution witnesses by giving threat or inducement to them by making them back out of their previous statements recorded with the police, the witnesses turning hostile, evidence of prosecution being closed by order leaving many material witnesses unexamined etc. the accused do manage to earn acquittal although that certainly does not mean that such accused was not involved in the criminal activities. Therefore, the petitioner/accused earning acquittal in 17 criminal cases registered against him does not mean that registration of such cases against him is to be ignored. In the order, it had been observed that grant of bail to such type of habitual offenders would send a wrong signal in the society that one can indulge in crime repeatedly and then come out of the jail after a short period, that way encouraging the potential criminals to treat the path of crime and the victims of the fraud would only get disheartened. Merely because the petitioner is behind bars for about one year and nine months in this case, it would not be proper and appropriate to order his release from the custody by granting him bail because there is likelihood of his taking to path of crime again and disturbing the public peace and tranquility by indulging into criminal activities and he may cheat several other innocent persons and play fraud with them. Thus curtailing personal liberty of a person having such criminal record by refusal of bail to him is justified. There has not been any noticeable change in circumstances since dismissal of the earlier petition. There is no reason to review the observations made in order dated 26.10.2020.

Thus keeping in view the detailed discussion above, I find that the petition is doomed for failure and is dismissed accordingly.

It may be mentioned here that nothing discussed hereinabove shall have any bearing on the merits of the case.

20.8.2021
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(H.S.MADAAN)
JUDGE

Whether reasoned/speaking : Yes/No

Whether reportable : Yes/No