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

(Through video conferencing)

**CRM-M No.33480 of 2021(O&M)
Date of Decision: 27.09.2021**

Ashwani Kumar

.....Petitioner

Vs

State of Punjab

.....Respondent

CORAM: HON'BLE MR. JUSTICE RAJ MOHAN SINGH

Present:Mr. Sandeep Jain, Advocate
for the petitioner.

Mr. Bhupender Beniwal, AAG, Punjab.

RAJ MOHAN SINGH, J.(Oral)

Petitioner seeks grant of regular bail under Section 439 Cr.P.C in case bearing FIR No.88 dated 19.05.2018 registered under Section 420 IPC at Police Station City Phagwara, District Kapurthala.

Learned counsel for the petitioner submits that the Nitu Goyal wife of Gaurav Goyal is the sole proprietor of OHO Holidays, Zirakpur. Petitioner was an employee/sales manager in the aforesaid OHO Holidays and he was assigned the job of providing services of booking of air tickets, tour packages and

hotel booking etc. Petitioner has already resigned from the said company on 01.11.2017. Complainant and one Avtar Singh Mand are partners in their travelling agency in the name and style of Kingz Travel Hub, Phagwara. The complainant approached OHO Holidays for booking of packages of 36 persons tour to America and paid an amount of Rs.2.5 lacs on 29.11.2016 in the account of OHO Holidays. An amount of Rs.1, 10,000/- was settled per person i.e. Rs.39.60 lacs for total 36 persons as per terms and conditions finalized between the parties. Complainant paid an amount of Rs.7 lacs, which was deposited in the account of proprietorship concern.

There are assertions and denial in respect of fault attributable to the parties. According to OHO Holidays establishment, the complainant was required to make payment of tour package by 15.05.2017, but they paid only an amount of Rs.7 lacs. OHO Holidays got the air flight put on hold and hotel as well for the purpose of said tour package for want of payment of total money. OHO Holidays forced to cancel the booking.

Learned counsel for the petitioner further submits that the FIR has been lodged after a delay of about 9 months. Petitioner was an employee of the company and he has resigned from the company on 01.11.2017. Petitioner was neither the beneficiary, nor involved in the affairs of the

company in any manner except to render services of booking of air tickets, tour packages and hotel booking etc. Learned counsel also pointed out that other partner of the complainant filed a separate complaint on the same issue in Police Station Zirakpur and after conducting proper inquiry by the police, the same was found to be baseless. No FIR was registered at Zirakpur. Petitioner is in custody since 22.07.2021. Challan has been presented even after the period of 60 days.

Learned State counsel, however opposed the bail on the premise that after investigation, the challan has been submitted to the Court today itself i.e. 27.09.2021. Co-accused Bhagwat Sharma has already been granted anticipatory bail vide order of even date passed in CRM-M No.31984 of 2021.

Keeping in view the nature of allegations, custody of the petitioner and in view of the offence being triable by the Magistrate, where challan has already been presented, I deem it appropriate to enlarge the petitioner on regular bail without meaning anything on merits of the case.

In view of above, petition is allowed. Petitioner is ordered to be released on regular bail, subject to his furnishing adequate bail bonds/surety bonds to the satisfaction of the trial Court/concerned Duty Magistrate.

Nothing expressed hereinabove would be construed to be an expression of opinion on merits of the case.

September 27, 2021	(RAJ MOHAN SINGH)
<i>Prince</i>	JUDGE
Whether speaking/reasoned	Yes/No
Whether reportable	Yes/No