

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

Sr. No.250

CRM-M-42196-2021

Date of decision: 16.11.2021

Salvester Francis

....Petitioner

Versus

State of Punjab

....Respondent

CORAM: HON'BLE MR. JUSTICE DEEPAK SIBAL

Present: Mr. Sandeep Singh Jattan, Advocate,
for the petitioner.

Mr. Saurav Khurana, DAG, Haryana.

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DEEPAK SIBAL, J. (Oral)

The present petition has been filed under Section 439 Cr.P.C. for the grant of regular bail in FIR No.27 dated 12.08.2021, registered under Sections 120-B and 420 IPC and Section 13 of the Punjab Travel Professional Act, 2014 at Police Station NRI, District Amritsar.

Briefly stated, the case of the prosecution is that the complainant was known to the petitioner; the complainant expressed a desire with the petitioner for sending her abroad for further studies; the petitioner introduced the complainant to a travel agent namely Sunit Luthra who demanded several lakhs of rupees to send her abroad and get her admitted over there in an educational institution; the complainant agreed to pay Rs.13 lakhs; the complainant then gave Rs.13 lakhs to the petitioner and his wife; the complainant was then sent to England but she could not attend her online classes as the password for the same had not been supplied to her by the University; the complainant approached the petitioner and co-accused Sunit Luthra for the password but they refused to extend any help and refund her money.

Learned counsel for the petitioner contends that the petitioner has been falsely implicated in this case; the petitioner does not face any other criminal case; the petitioner is in custody since 11.09.2021;

investigation qua the petitioner is complete and therefore, the petitioner is not in a position to influence the same; the amounts received by the petitioner and his wife were withdrawn on the same date and handed over to the travel agent namely Sunit Luthra and all that the petitioner got was a small commission; there is no fraud played with the complainant as the complainant was in fact sent to England where she stands admitted in a University; so far as the password to login her educational course is concerned, the complainant was herself corresponding with the University in England for the same and that she had since been supplied the password; only because there has been certain delay in sending the password to the complainant by the University the complainant has got lodged the present FIR against the petitioner and his co-accused; co-accused Sunit Luthra has been granted ad-interim anticipatory bail by this Court and that the petitioner's trial, which is yet to begin, will take a long time to conclude.

Learned State counsel opposes the grant of bail to the petitioner on the ground that he has defrauded the complainant for an amount of Rs.13 lakhs.

It is a fact that the complainant is presently in England where she is pursuing her studies. Sending her to England and getting her admitted over there has been facilitated by the co-accused Sunit Luthra. The only complaint is the delay in the complainant's admission.

Whether in the afore submitted circumstances the petitioner and his co-accused have defrauded the complainant would be debated during the course of the petitioner's trial. It shall further be debated as to whether the petitioner passed on all the amounts received from the complainant to co-accused Sunit Luthra. However, in a magisterial trial, the petitioner is in custody since 11.09.2021; investigation qua the petitioner is complete; no further recovery is required to be made from him; the petitioner has no criminal antecedents and that the petitioner's trial, which is yet to begin, is likely to take a long time to conclude.

In view of the above, the present case is considered to be a fit one in which the petitioner be directed to be released on regular bail. Resultantly, subject to the satisfaction of the CJM/Duty Magistrate, Amritsar, the petitioner is directed to be released on bail.

It is clarified that the above observations have been made only for the limited purpose of deciding the present regular bail application and the same would not be construed to be an expression of opinion on the merits of the case.

November 16, 2021
Jyoti 1

(DEEPAK SIBAL)
JUDGE

Whether speaking/reasoned	Yes/No
Whether reportable	Yes/No