

CRM-M-29899-2021 (O&M)

Through video conference
108+207

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

CRM-M-29899-2021 (O&M).
Decided on: January 6, 2022.

Beant Singh Gill

.. Petitioner

VERSUS

State of Punjab

.. Respondent

*** * ***

CORAM: HON'BLE MR. JUSTICE JASGURPREET SINGH PURI

*** * ***

**PRESENT Mr.P.K.S.Phoolka, Advocate,
for the petitioner.**

Mr.Sandeep Singh Deol, DAG, Punjab.

**Mr.Ritesh Pandey, Advocate,
for the complainant.**

JASGURPREET SINGH PURI, J. (ORAL)

CRM-38825-2021

For the reasons recorded in the application, the same is
allowed. Annexure P-5 is permitted to be taken on record subject to all just
exceptions.

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Main Case

The present petition has been filed under Section 439 of the Code of Criminal Procedure, seeking regular bail in FIR No.0250 dated 24.10.2020, under Section 420 IPC, registered at Police Station Dasuya, Hoshiarpur, District Hoshiarpur.

Learned counsel for the petitioner has submitted that in the present case the allegations against the petitioner are that he had taken an amount of Rs.13,20,000/- out of which Rs.2,00,000/- was taken in cash and the remaining amount was taken by transfer and since the VISA application of the complainant could not mature, the present FIR was lodged against the petitioner. It has been submitted by the learned counsel for the petitioner that the petitioner is doing the business of immigration professionally in accordance with law and he has charged money from the complainant for the purpose of sending him to Canada on PR basis by following due procedure of law and no fraud has been committed by the petitioner. He submitted that by mere taking money from the complainant does not per se constitute any fraud because the petitioner has already processed the application form of the complainant and vide Annexure P-5 the application of the complainant was duly sent to the Canadian Embassy in the year 2019 and thereafter, the process was halted because of Covid – 19 Pandemic and apart from the same, some requirements were also to be fulfilled by the complainant by supplying certain documents which were not given by the complainant and therefore, the petitioner cannot be faulted in case Canadian VISA application of the complainant did not mature in time

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and in fact, as per the information of the petitioner, the file was closed due to non-cooperation by the complainant by non-supplying of documents. He has further submitted that the petitioner is in custody since 28.4.2021 which is more than 8 months and the investigation of the case is already complete and challan has been presented. He has further submitted that although the petitioner is involved in 5 more cases which in fact has been mentioned in para No.8 of the petition but those cases are of similar nature wherein certain aspirants have got lodged the FIRs on the ground that their VISA application has not been accepted by the Canadian Embassy. He further submitted that it is not the case of the State that the petitioner is involved in any illegal activities of sending people abroad and rather it is a case where the application could not mature because of one reason or the other with regard to different applicants and therefore, the petitioner may be granted the concession of regular bail.

On the other hand, learned State counsel has not disputed that the petitioner is in custody since 28.4.2021 and the investigation of the case is already complete. However, he has opposed the grant of regular bail to the petitioner on the ground that there are five other FIRs pending against the petitioner.

Learned counsel for the complainant has stated that it is yet to be determined as to whether the petitioner had applied for VISA of the complainant or not and therefore, he has opposed the grant of bail.

I have heard the learned counsel for the parties.

The petitioner is in custody since 28.4.2021 which is

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more than 8 months and the investigation of the case is already complete and no recovery is to be effected from the petitioner. So far as the allegation that the petitioner had taken an amount of Rs.13,20,000/- from the complainant for the purpose of filing VISA application for Canadian immigration which according to the learned counsel for the petitioner he had applied vide Annexure P-5 but the same could not be processed further by the Canadian Embassy because of Covid 19 Pandemic and therefore, due to non-cooperation of the complainant by not supplying the relevant documents, the file was closed. Further, it is not the case of the State that the petitioner is in the profession without any authorisation. However, it is a case where the allegations are that despite taking fee/money the petitioner could not secure VISA for the complainant. The investigation of the case is already complete and it is the case of the prosecution that no recovery is to be effected from the petitioner. So far as the pendency of other five FIRs against the petitioner is concerned, as per the learned counsel for the petitioner, they are of similar nature. The allegation that the petitioner could not get success in the VISA cannot become a ground for denial of bail to the petitioner.

Therefore, keeping in view the totality of circumstances of the present case, this Court deems it fit and proper to grant regular bail to the petitioner. Accordingly, the present petition is allowed. It is ordered that the petitioner shall be released on bail on furnishing bail bond/surety bond to the satisfaction of the trial Court/Duty Magistrate concerned in case not required any other case.

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However, anything observed hereinabove shall not be treated as an expression of opinion on merits of the case and is meant only for the purpose of decision of present petition.

January 6, 2022.
raj arora

(JASGURPREET SINGH PURI)
JUDGE

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