

**In The High Court for the States of Punjab and Haryana
At Chandigarh**

CRM-M-52462-2021 (O&M)
Date of Decision:- 25.3.2022

Prateek Nepalia

.... Petitioner

Versus

State of Haryana

... Respondent

CORAM: HON'BLE MR. JUSTICE GURVINDER SINGH GILL

Present:- Mr. Baltej Singh Sidhu, Senior Advocate with
Mr. Divij Datt, Advocate, for the petitioner.

Mr. Rajiv Sidhu, DAG, Haryana,
assisted by ASI Gajraj.

GURVINDER SINGH GILL, J. (Oral)

CRM-5341-2022

In view of the reasons mentioned in the application, the same is allowed as prayed for and Annexure P-5 is taken on record subject to all exceptions.

CRM-M-52462-2021 (O&M)

1. The petitioner has approached this Court seeking grant of regular bail in respect of a case registered against him vide FIR No.239 dated 08.07.2020 at Police Station DLF, District Gurugram, under Sections 406, 420 and 506 IPC.

2. The allegations in nutshell in the instant case are that the complainant has been duped of huge amount by the accused on the pretext of getting his admission in some University in Germany. As per FIR, the complainant had contacted one Vishakha Madam of M/s UniFact Edutech Pvt. Ltd., who had initially directed the complainant to deposit an amount of Rs.1826/- and upon deposit of said amount, a list of Universities of Germany had been sent to the complainant. Thereafter, the complainant was asked to deposit a registration fee of Rs.82,600/-, which the complainant accordingly transferred through a bank account. Subsequently, another amount of Rs.2,95,000/- is stated to have been deposited and the complainant was told to clear German Language 'A1' & 'A2' examinations.
3. Learned counsel for the petitioners has submitted that the firm i.e. M/s UniFact Edutech Pvt. Ltd. in which the petitioner was previously working as a Director, is in fact rendering career counseling, assistance, advice, guidance or arranging admissions in Universities of Germany and also organizes travel arrangements and renders assistance for getting Visa. It has been submitted that as per the agreement entered into between M/s UniFact Edutech Pvt. Ltd. and the complainant, a candidate was required to submit a certificate indicating that he had passed 'A1' & 'A2' examinations conducted by Goethe (Maxmuller) and that since the complainant had not passed the said tests, therefore, M/s UniFact Edutech Pvt. Ltd. was unable to arrange for his admission.

4. Learned counsel for the petitioner has submitted that the petitioner had resigned from the directorship of the company w.e.f. 16.9.2019 and that the said information in the shape of Form DIR-12 had been conveyed to Registrar of Companies, as would be evident from a copy of Form DIR-12 (Annexure P-3) downloaded from the website of ROC. It has thus been submitted that the petitioner was never incharge of the affairs of the company when the alleged occurrence took place and as such he cannot be held liable for any kind of liability.
5. On the other hand, learned State counsel while opposing the petition has submitted that the petitioner had remained actively associated with the company during his tenure and the company had defrauded a large number of people and infact there is evidence to suggest that the petitioner had received an amount of Rs.11.40 lakhs during his tenure. It has further been submitted that the petitioner stands involved in as many as 11 other identical cases and it was thereafter as a ploy to escape from his liability that he tendered his resignation. Learned State counsel has however, informed that the petitioner has been behind bars since the last more than 6 months and that challan already stands presented. It has also been informed that although challan stands presented, but charges are yet to be framed and as many as 15 PWs have been cited.
6. I have considered rival submissions addressed before this Court.
7. Although, the evidence collected by the police does suggest that the petitioner had remained a Director of the company, but in view of

Form DIR-12, the involvement of the petitioner may be rendered debatable subject to the authenticity of the said form being verified and ofcourse subject to the verification of the factum that the said Form DIR-12 was not antedated or had been submitted belatedly. In any case, since the petitioner has been behind bars for a substantial period of 6 months and the trial has not even commenced till date, further detention of the petitioner is not justified as conclusion of trial is likely to consume time. The petition, as such, is accepted and the petitioner is ordered to be released on bail subject to her furnishing bail bonds to the satisfaction of learned trial Court/Chief Judicial Magistrate/Duty Magistrate concerned.

25.3.2022

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(GURVINDER SINGH GILL)
JUDGE

Whether speaking /reasoned

Yes / No

Whether Reportable

Yes / No