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

**CRM-M-55424-2019** (O&M)

(1) Neha Gautam @ Ashma ...Petitioner

Versus

State of Punjab ...Respondent

(2) **CRM-M-4-2020** (O&M)

Amritpal Singh ...Petitioner

Versus

State of Punjab ...Respondent

(3) **CRM-M-4519-2020** (O&M)

Shiv Kumar @ Sameer @ Som Harish ...Petitioner

Versus

State of Punjab ...Respondent

Date of Decision:- 11.1.2022

**CORAM: HON'BLE MR. JUSTICE GURVINDER SINGH GILL**

Present: None for the petitioner in CRM-M-55424-2019. .

Mr. M.K.Dhot, Advocate for the petitioner in CRM-M-4-2020.

Mr. D.S.Malwai, Advocate for the petitioner in CRM-M-4519-2020.

Mr. Ajay Pal Singh Gill, DAG, Punjab, assisted by ASI Pritpal Singh.

Mr. Neeraj Madan, Advocate for the complainant.

*(proceedings conducted through video conferencing)*

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**GURVINDER SINGH GILL, J.**

1. This order shall dispose off the above mentioned three petitions filed on behalf of Neha Gautam @ Ashma, Amritpal Singh and Shiv Kumar @ Sameer @ Som Harish seeking grant of anticipatory bail in a case registered vide FIR No.231 dated 4.11.2019 under Sections 406, 420/120-B IPC and Section 13 of the Punjab Travel (Professionals) Act, 2014 at Police Station Phase-1, District SAS Nagar (Mohali).

2. The FIR in question was lodged at the instance of Prem Kumar wherein it is alleged that he as well as other members of his family had applied for getting a VISA to Canada. While his two children i.e. daughter named Sonam Kumari, aged 16 years and son named Vansh Kumar, aged 14 years, had applied for study VISA, his wife Asha Rani was having a Guardian VISA. The petitioner himself had a multiple entry VISA. The applications had been submitted on 25.3.2018 with M/s WR Way Yours Dreams Our Efforts Immigation Consultant, SCO 70, 2nd Floor, Phase-2, Sector 54, SAS Nagar Mohali and it was assured that the VISA will be issued to the family within three months. After about three months, when the complainant contacted Sameer, he was asked to wait for another month. Sameer had sent details of a bank account i.e. Bank Account No. 1799104000030153 of IDBI Bank, which was in the name of Neha Gautam. Said Neha Gautam had, however, disclosed her name as Ashima Sharma. Later after two days, the accused called the complainant and told him that they would accept money in cash only. Accordingly, the complainant went to their house and gave an amount of ₹ 50,000/- to Ashima Sharma (Neha Gautam) and to Sumit in cash and

against which the accused issued receipt No. 105 and 106, duly signed by Sameer. However, despite the complainant insisting upon furnishing of some evidence regarding submission of their VISA file, no such document was furnished to him. Rather, the accused started misbehaving. It is alleged that on 9.3.2018, an amount of ₹ 30,600/- was deposited in IndusInd Bank in Bank account No. 201000857773 and another amount of ₹40,000/- was given in cash to the accused. It is further alleged that another amount of ₹40,000/- has also been deposited in the said IndusInd Bank in Bank account No. 201000857773. However, the accused later conveyed a 'refusal letter' and told the complainant that there has been a change in rules in Canada and that while earlier the fees could be deposited in the school concerned after reaching Canada but now the same was to be deposited beforehand with Canada Board. The fees which was stated to be ₹3,18,000/- per student, was given on 30.7.2018 against receipt No. 524 and 525. It is, thus, alleged that a total of ₹ 7,96,600/- had been given to the accused. However, despite lapse of a period of about 13-14 months, the complainant did not receive any message from Embassy regarding submission of file. Later, when the complainant persisted with the accused Ashima Sharma, Sameer, Nisha and other employees, they started saying that Amritpal is the owner of the office and the complainant should talk to him. However, the complainant could not meet Amritpal and said Amritpal when contacted on phone used to come up with some excuse. It is alleged that subsequently when the complainant got the refusal letter checked, it was found that the same was a forged document. Later, when the complainant went to the office of accused on 2.9.2018, he found that the office had been closed. On 3.9.2019, the complainant's wife called on the mobile phone of accused Aaruhi on phone No.8544919554, who told her that their main head office is in Phase-7, Mohali but later disconnected the phone and did not pick up the calls made by the complainant subsequently to her.

3. The learned counsel for the petitioners have submitted that the petitioners have falsely been implicated in the present case and that there is no cogent evidence to establish the allegations levelled by the complainant in the FIR. The learned counsel for the accused Amritpal has submitted that even if the allegations, as levelled in the FIR, are taken to be correct, it is the co-accused Neha Gautam and Sameer who are stated to have received money from the complainant and that the petitioner Amritpal was nowhere in picture. The learned counsel representing accused Sameer has sumitted that he alongwith Neha Gautam are merely employees of the firm in question and that it is the proprietor of the firm in question who can be held responsible for the alleged fraud, if any committed with the complainant. The learned counsel has submitted that there is no evidence to show that any payment had been received by the petitioners and as such, the petitioners deserve the concession of anticipatory bail.

4. On the other hand, the learned State counsel, assisted by counsel for the complainant has submitted that there are specific and categoric allegations against the accused as regards cheating the complainant of huge amount and since some of the amounts had also been paid by way of bank transactions,

no case for grant of anticipatory bail is made out, particularly when some of the accused also happen to be involved in other cases.

5. I have considered rival submissions addressed before this Court.

6. It is not in dispute that the petitioner Shiv Kumar @ Sameer and petitioner Neha Gautam were working in M/s WR Way Yours Dreams Our Efforts Immigation Consultant, Mohali, though, they have stated that they had been working as employees and not as partners. The specific stand of the said accused is that it is the co-accused petitioner Amritpal, who is the owner of the firm in question.

7. The petitioner Amritpal in Para 7, 8 and 9 of the petition has taken the following stand as regards the firm in question :-

> "7. That the name of the petitioner has been falsely implicated by the other co-accused persons due to the reason that in the same premises the petitioner was also doing his work as a consultant being a proprietor of his own company under the name and style of "THE WORLD RIGHT WAY" and the said premises was taken by the petitioner from its owner w.e.f. 01.10.2016 to 31.08.2017, vide executing a rent agreement dated 30.09.2016.
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> 8. That after the expiry of the rent agreement the petitioner also worked their upto December 2017/January 2018, and thereafter the entire office set up has been taken by the main accused namely Ashima alias Neha Gautam, and Sameer alias Sam Harish alias Shiv Kumar, from the petitioner as the petitioner was no more interested to continue his consultancy work due to some reasons and handed over his entire office set up to the above mentioned accused persons who were known to the petitioner.

9. That after handing over his entire office setup to the above mentioned accused persons, they started their own consultancy work under the name and style of their company i.e. WR WAY YOUR DREAMS mentioned by the complainant in his complaint and it is relevant to mention here that as per the FIR the complainant also approached the WR WAY YOUR DREAMS on dated 25.3.2018, and on said date the petitioner had no concern with this company as neither the petitioner is the partner nor the proprietor of the said firm and neither had any concern with the other co-accused."

8. From the aforestated position, it is apparent that the factum of the petitioners being into the business of arranging for VISA is not disputed. Since there are specific allegations to the effect that the accused despite having taken huge amount, a part of which was also paid through bank transaction, have not done anything for the purpose of issuance of VISA and rather had furnished a forged rejection letter to the complainant, this Court does not find any special case for grant of bail and is of the opinion that it is a case where custodial interrogation of the petitioners would be required.

9. The petitions are found to be sans merits and are hereby dismissed.

10. A photocopy of this order be placed on the file of connected cases.

**11.1.2022** **(Gurvinder Singh Gill)**
kamal **Judge**

Whether speaking /reasoned Yes / No
Whether Reportable Yes / No