

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

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CRM-M-14681-2023

Date of decision: 23.03.2023

AMAN KUMAR KAUSHIK**...Petitioner****VERSUS****STATE OF PUNJAB****...Respondent****CORAM : HON'BLE MR. JUSTICE DEEPAK MANCHANDA**

Present: Mr. Ashish Aggarwal, Advocate
for the petitioner.

DEEPAK MANCHANDA, J.(ORAL)

Present petition has been filed under Section 438 Cr.P.C. for grant of anticipatory bail to the petitioner in case FIR No.170 dated 30.08.2018 under Sections 419, 420, 465, 466, 468 and 471 of IPC, registered at Police Station City Patti, District Tarn Taran.

Learned counsel for the petitioner contends that the complainant-Harinder Singh nominated the petitioner as an accused in case FIR No.220 dated 08.10.2014 under Sections 420, 467, 468 and 471 of IPC, registered at Police Station Bhikhiwind, District Tarn Taran alleging that he along with the co-accused Ajay Kumar Chopra had duped him in order to settle him in Australia by providing forged and fabricated visa documents. It is pertinent to mention here that co-accused and the present petitioner had been granted concession of regular bail in FIR No.220 dated 08.10.2014 vide CRM-M-3667-2015 dated 06.07.2015 (Annexure P-1) and CRM-M-35739-2015 dated 02.11.2015 (Annexure P-2) respectively, in view of the fact that no forged and fabricated visa document was provided by them rather only transit visa was obtained by providing fraudulent information.

However, after 02 years, complainant moved an application before the

learned trial Court to the effect that the sureties stood on behalf of the petitioner and his co-accused and their identifiers were fake persons. Thereafter, the present FIR No.170 dated 30.08.2018 under Sections 419, 420, 465, 466, 468 and 471 of IPC was registered against the petitioner and his co-accused in compliance of order dated 17.08.2018 passed by Judicial Magistrate First Class, Patti. Learned counsel submits that the petitioner is not involved in any other case and anticipatory bail to the petitioner be granted.

On receipt of advance copy, Mr. P.S. Grewal, DAG, Punjab has put in appearance on behalf of respondent-State and has opposed the contentions and argued that in light of the grave and serious allegations levelled against the applicant, as during the investigation, it has come as to his having been involved, thus, for facilitating thorough and fair investigation, the custodial interrogation of the petitioner is required. The anticipatory application of the petitioner be dismissed.

I have heard learned counsel for the parties.

Keeping in view of facts as well as submissions made by learned counsel for the petitioner, specific allegations have been levelled against the petitioner and the co-accused having allegedly committed the fraud and cheated with the Court while furnishing fake sureties in the trial Court. Totality of the facts of the present case when taken into consideration coupled with the ratio-decidenti laid down by the constitutional bench of the Hon'ble Apex Court in "**Gurbax Singh Sibia Versus State of Punjab, 1980(2) Supreme Court cases 565**" wherein it has been made abundantly clear that while deciding the application U/s 438 of Cr.P.C. that the court has to strike the balance between the liberty of the citizens and interest of

general public at large. The provisions of Section 438 of Cr.PC are intended to protect the people from a process which may suggest abuse of law but certainly not intended to benefit people who have much to explain for their conduct which prima facie is in conflict with law. The Court is of the considered opinion that in order to facilitate a through and fair investigation, the custodial interrogation of the applicant is rather inevitable. Release of such like accused on bail would only encourage white collar crimes and fraudulent transactions, which have to be nipped in the bud.

Accordingly, the present petition is dismissed.

March 23, 2023
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(DEEPAK MANCHANDA)
JUDGE

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