

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

**CRM-M-22017-2023 (O&M)
Date of decision : 30.11.2023**

Vijay Kumar Kushwaha

...Petitioner(s)

Versus

State of Punjab

...Respondent(s)

CORAM: HON'BLE MR. JUSTICE MAHABIR SINGH SINDHU

Present: Ms. Isha Goyal, Advocate for the petitioner.

Mr. C.L.Pawar, Addl. A.G., Punjab for the respondent.

Mr. Jagjeet Singh, Advocate for
Mr. Amit Arora, Advocate for the complainant.

MAHABIR SINGH SINDHU, J.

Present petition under Section 438 of the Code of Criminal Procedure has been filed for grant of pre-arrest bail to the petitioner in FIR No.155 dated 24.08.2019, under Sections 420, 120-B of the Indian Penal Code, 1860 and Section 13 of the Punjab Travel Professionals (Regulation) Act, 2014, registered at Police Station Chheharta, District Amritsar.

(2) Above FIR was registered on the basis of complaint made by Atinderpal Singh with the allegations that petitioner, along with other co-accused, cheated him to the tune of ₹ 3.5 Lakh for arranging work permit of Canada and also threatened with dire consequences.

(3) The Coordinate Bench, vide order dated 06.09.2023, granted interim bail to petitioner and the same reads as under:-

“The present petition has been filed under Section 438 Cr.P.C. for grant of pre-arrest bail to the petitioner in FIR No.155 dated 24.08.2019, registered under Sections 420 and 120-B IPC (Section 13 of Punjab Travel Professional Regulation Act, 2012 added later on) at Police Station Chheharta, District Amritsar.

Learned counsel contends that the name of the petitioner surfaced based on the disclosure statement of co-accused Om Parkash, who allegedly received an amount to Rs.3.5 lac in his own account. There is no evidence coming forth that the amount was withdrawn by the petitioner or that he had allured the complainant for sending him abroad. He is not in the business of travel agency or of sending persons abroad. As a matter of fact, the account number of co-accused was given by one co-accused Pooja Nada from her mobile No.89297-94711, who introduced herself as an employee of Delhi Immigration, however, instead of arresting her, the petitioner has been falsely implicated. Even co-accused Om Parkash, who received the money was joined by the investigating agency but not arrested. The petitioner is not involved in any other case of similar nature. He is ready and willing to join the investigation as and when required by the investigating agency and will cooperate.

Adjourned to 30.10.2023.

Meanwhile, the petitioner is directed to join the investigation on or before 15.09.2023. In the event of his arrest, he shall be released on interim bail to the satisfaction of the Arresting Officer, subject to compliance of conditions as enshrined under Section 438(2) Cr.P.C.

However, it is clarified that if the petitioner does not join and cooperate with the Investigating Agency as required by the Arresting/Investigating Officer, this interim order shall be deemed to have been vacated.”

(4) Learned Counsel submits that in pursuance of the aforesaid order, petitioner has already joined the investigation and his custodial interrogation is not required.

(5) Learned State Counsel, on instructions from SI Jagga Singh, submits that petitioner has joined investigation and as on today, his custodial interrogation is not required.

(6) Although learned Counsel for the complainant opposed the prayer; but keeping in view the fact that State does not require any custodial interrogation of petitioner, therefore, the objection in this regard is rejected.

(7) In view of above, interim order dated 06.09.2023 is made absolute subject to the conditions as envisaged under Section 438(2) Cr.P.C.

(8) It is also made clear that petitioner shall fully co-operate with the Investigating Officer as and when called for further investigation.

(9) The above observations may not be construed as an expression of opinion on merits of the case; rather confined only to decide the present bail matter.

(10) Disposed off accordingly.

(11) It is made clear that in case there is a recurrence on the part of petitioner, State would be at liberty to move an appropriate application for recalling of this order.

(12) Pending application(s), if any, shall also stand disposed off.

November 30, 2023
Gagan

(MAHABIR SINGH SINDHU)
JUDGE

<i>Whether speaking/reasoned</i>	<i>Yes</i>
<i>Whether Reportable</i>	<i>Yes</i>