

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

Neutral Citation No. 2023:PHHC:096707
CRM-M-26150-2023
Date of Decision: July 28, 2023

Aashima Malhotra

...Petitioner

Versus

State of U.T., Chandigarh

...Respondent

CORAM: HON'BLE MR. JUSTICE DEEPAK GUPTA

Present: - Mr. Harsh Manocha, Advocate for the petitioner.

Mr. Abhinav Gupta, APP for U.T., Chandigarh.

DEEPAK GUPTA, J.

By way of this petition filed under Section 439 Cr.P.C., petitioner prays for grant of regular bail in case FIR No.219 dated 26.11.2020, registered at Police Station Sector 36, Chandigarh, under Sections 420, 120-B of IPC.

2. FIR was registered on the complaint of Smt. Ramesh Kumari and Smt. Usha Rani against Randeep Ghosal, Aashima Malhotra (petitioner) and other Members of Uni-Assist Edutech Pvt. Ltd. (now known as Uni-Fact Edutech Pvt. Ltd.), who had fraudulently taken the amount of ₹8,78,000/- from the complainants for the study VISA of their daughters, namely, Niharika Kamal and Kritika for sending them to Germany. Documents of the daughters of the complainants were also taken. Amount was taken in installments from time to time. However, despite lapse of time, the company neither arranged the VISA for the girls nor returned the documents or the amount and so much so, they stopped responding to the calls of the complainants.

3. It is contended by learned counsel for the petitioner that it is Randeep Ghosal, who was the master mind of the entire fraud. Petitioner was only an employee of the company and was working in good faith on the direction of Randeep Ghosal. No amount was credited to her account nor she misappropriated the funds of the company. Learned counsel contends that the petitioner initially joined as an employee of Uni Global in February, 2018 at salary of ₹16,000/- and later on she was made a Director of Uni Assist Edutech Pvt. Ltd. by raising the salary to ₹32,000/. Learned counsel contends that petitioner was shown only as a dummy Director, as much as all the online bank account passwords were with the main accused Randeep Ghosal. Even the phone number linked with the bank account of the accused-company, where OTP used to be received, was with the aforesaid accused. As the petitioner got the hint of illegal activities of the company, she immediately gave resignation, vide an e-mail dated 16.10.2019. The entire payment had been made directly by the complainants to the company and not a single penny had been received by the petitioner.

4. Petitioner has also given the details of the other cases, in which she is involved. However, learned counsel contends that in all these cases, she has been allowed bail.

5. Learned State counsel has opposed the bail petition by submitting that petitioner is involved in as many as 11 cases of the similar nature, as per the details given in the reply. It is further submitted that as many as 06 FIR have been lodged against the company Uni-Fact Edutech Pvt. Ltd. However, it is informed after filing of the challan, charges have been framed on 21.01.2023 and out of 30 witnesses, 09 witnesses have been examined so far.

6. As the contents of the FIR reveal, no amount was paid in the personal account of the petitioner. Either the cheque was handed over to Randeep Ghosal, the Managing Director of the company, or the amount was transferred in the account of the company.

7. It is not disputed by learned State counsel that petitioner has been allowed bail in the other cases.

8. Apart from this, it has been observed by the Hon'ble Supreme Court in case of "*Maulana Mohd Amir Rashadi v. State of U.P. (2012) 3 382*", that merely on the basis of criminal antecedents, claim for bail cannot be rejected. It is the duty of the Court to find out the role of the accused in the case, in which he/she has been charged and the other circumstances such as possibility of fleeing away from the jurisdiction of the Court etc.

9. Petitioner in this case is a single mother of a 7 years old child. The case is triable by the Magistrate. Trial is likely to take time to conclude. She is already in custody since 20.09.2022.

10. Having regard to the aforesaid facts and circumstances, but without commenting anything further upon the merits of the case, the petitioner is admitted to regular bail and is ordered to be released on her furnishing bail bonds and surety bonds to the satisfaction of learned Trial Court/Duty Magistrate concerned.

Allowed.

July 28, 2023
sarita

(DEEPAK GUPTA)
JUDGE

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