

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

CRM-M-26628-2023 (O&M)

Date of Decision:07.08.2023

Somnath @ Somraj

...Petitioner

Vs.

State of Punjab

...Respondent

Coram : Hon'ble Mr. Justice N.S.Shekhawat

Present: Mr.G.P.S Ghuman, Advocate for
for the petitioner.

Mr. M.S. Bajwa, DAG, Punjab.

Mr. H.S Saini, Advocate
for the complainant.

N.S.Shekhawat J.

CRM-31551-2023

1. The petitioner/applicant has moved the present application under Section 482 Cr.PC with a prayer to add Section 364-A of IPC in the head note as well as in the prayer clause of the present petition. Learned counsel for the applicant/petitioner submits that at the time of presentation of challan, the police has added the offence under Section 364-A IPC, along with other offences and at the time of disposal of the bail application the said offence may be added in the bail petition.

2. Learned State counsel has no objection in addition of the offence under Section 364-A of the IPC in the present case.

3. For the reasons mentioned in the application, the same is allowed and the offence under Section 364-A IPC may be added in the headnote as well as the prayer clause of the main bail.

4. The Registry is directed to carry out the necessary correction in this

regard.

5. Application stands disposed off.

Main case:

1. The petitioner has filed the present petition under Section 439 Cr. PC with a prayer to grant regular bail to him in case FIR No.8 dated 06.01.2023 under Sections 406, 420, 370, 386, 364-A of IPC and 13 of the Punjab Travel Professionals (Regulation) Act, 2014 registered at Police Station Kharar, District SAS Nagar, Punjab.

2. The FIR in the present case was got registered by Gurpreet Singh son of Manjeet Singh against Baldish Kaur, Raman, Karan, Gurpreet Singh, Sahib, Jasbir, Hukam Singh, Manish etc. by alleging that the aforesaid accused were having an office at Sunny Enclave, Kharar and had cheated many persons on the pretext of sending them abroad. As per the complainant, huge amounts were taken from different victims and were taken to different countries illegally on the basis of forged and fabricated documents. Apart from that, the accused had taken the victims to Mexico and other countries and forced the victims to make phone calls to their family members and the money was extorted from their families. It was further alleged that during the course of investigation, Baldish Kaur, Gurjeet Singh, Veena and Sahil and the petitioner were arrested in the present case and a total amount of Rs.2.84 crore in Indian Currency, 890 grams of gold jewellery and 5 cars were recovered from the arrested accused, who had cheated the innocent persons of their hardearned money on the pretext of sending them to Australia and instead of sending them there, the accused had sent them to Indonesia, where the victims were confined illegally and were

made to talk to the complainant and their family members, on gun point and to tell them they had reached safely and the remaining amount might be paid to the accused. With these broad allegations, the FIR was got registered against several persons.

3. Learned counsel for the petitioner contends that the petitioner had no concern with the allegations levelled by the complainant in the present case and was not even named by the complainant. In fact, the police of police station Sadar, Khahar conducted a raid at the residence of the petitioner and had beaten up the petitioner, his aged parents and other family members brutally and they were confined in an isolated place. The old parents of petitioner approached this Court and filed a petition for issuance of writ of Habeas Corpus for the release of the petitioner and other family members. When the police came to know about the filing of the said petition, they immediately sent the family members to their home, and illegally arrested the petitioner, Veena his daughter-in-law and Sahil Bhatti, nephew of the petitioner by planting certain recoveries on them. Learned counsel further contends that during the course of investigation, the police had planted the recovery of Rs.20,00,000/- from him, whereas neither the complainant, nor any other victim had ever met the petitioner. Even the petitioner never received any money from the complainant or any other victim either in cash or in his bank account. In fact, he has been falsely implicated in the present case, because certain persons levelled allegations against Sunny, son of the petitioner also. However, the petitioner is not aware the whereabouts of his son Sunny, since last several months. As per learned counsel, the petitioner was arrested in the present case on 25.01.2023 and is in custody for the last about six months. The investigation was completed

in the present case and the challan has already been presented against the petitioner and other co-accused. Still further, no other criminal case was registered against the present petitioner and his further custody will serve no meaningful purpose .

4. On the other hand, learned State counsel has vehemently opposed the prayer made by learned counsel for the petitioner on the ground that the petitioner and his co-accused had cheated innocent persons to the tune of crores of rupees. Even 20 lacs have been recovered from the present petitioner and he did not deserve the concession of bail.

5. I have heard the learned counsel for the parties and with their able assistance; I have gone through the record.

6. It is not in dispute that the petitioner was not named in the FIR and has been nominated as an accused on the basis of the disclosure statements suffered by Baldish Kaur. Still further, he was arrested in the present case on 25.01.2023 and the challan has been already presented against him. Consequently, his further custody will not serve any meaningful purpose. Further, there is no other criminal case against the present petitioner.

7. Without commenting on the merits of the case, the present petition is allowed. The petitioner is ordered to be released on bail pending trial on his furnishing bail bonds and surety to the satisfaction of the concerned trial Court/ Duty Magistrate/Chief Judicial Magistrate.

07.08.2023
hitesh

(N.S.SHEKHAWAT)
JUDGE

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