**2023:PHHC:121371**

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

223 **CRM-M-44911-2023**
**Date of decision : 14.09.2023**

**Gurjit Singh** ...... **Petitioner**

**versus**

**State of Haryana** ...... **Respondent**

**CORAM : HON'BLE MR. JUSTICE PANKAJ JAIN**

Present: Mr. S.S. Momi, Advocate
for the petitioner.

Mr. Ashok Kumar Sehrawat, DAG, Haryana.

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**PANKAJ JAIN, J. (Oral)**

1. Present petition has been filed under Section 439 Cr.P.C. for grant of regular bail to the petitioner in case bearing FIR No.498 dated 28.07.2022, registered for the offences punishable under Sections 406 & 420 of IPC and Section 10/24 of Emigration Act, 1983 (Section 506 of IPC added later on), at Police Station Thanesar Sadar, District, Kurukshetra.

2. As per the allegations levelled in the FIR, it has been alleged as under:-

> "One Complaint No. 2260-Misc 27.05.2022 after investigation through post copy of application was received from the office of Superintendent of Police Kurukshetra in the police station which is as follows:- To, Superintendent of Police, Karakahatra. Subject: Complaint regarding taking legal action against Gurjit @ Kala Singh S/o Gurdial Singh Mob. 098176-66078, resident of

village and Post Office Kesari, Police Station Saha, District Ambala for committing cheating and forging Rs. 15,10,000/- on the pretext of sending Foreign USA(America). Sir, the applicant prays as per written below: 1. That the applicant is a resident of Village Kathyarh Chapra, Tehsil and District Ambala. 2. That the aforesaid accused was used to come and go to the house of applicant's Jija Harnek Singh s/o Shri Naratta Ram r/o village Devi Das Pura, District Kurukshetra which was well known to the applicant's Jija and his other family members, due to this acquaintance, the aforesaid accused told us that he was sent a number of persons to foreign USA (America) after getting VISA in a legal way, for which he will take Rs. 28 lakh. It is decided that out of which Rs. 5 lakh advance and 5 thousand dollars will have to be given first and the remaining amount will be given after getting the VISA and after reaching America. The applicant talked to the above accused to send his son Mohit to abroad USA. On this the accused assured the applicant that within one month he would get his a VISA and will send USA in legal way. 3. That the aforesaid accused took documents like passport, Aadhaar card, photo etc, of his son from the applicant and as an advance, the accused has received the amount in lieu of getting VISA from the Applicant at Village Devi Dasspura, Tehai Thanesar, District Kurukshetra at the house of applicant's Jija, as per the details given below:- 1. Date: 08.12.2021 Rs. 5,00,000/- in cash which the applicant got this amount after selling land/plot. 2. On 10.12.2021 Rs. 4,00,000/- in cash from the land which was sold, 3. On 14.12.2021 Rs20,000/- in two times transferred from the account of son of the Applicant Mohit to the account of accused 4. On 30.03.2022 Rs. 3,50,000/- in cash, 5. On Dated 26.04.2022 Rs. 1,40,000/- as cash which was given by applicant after withdrawing from Central Bank of India. 5. On dated 28.04.2023 Rs. 1,00,000/- in cash which was given by applicant after withdrawing from Central Bank of India 4. That the aforesaid accused took the son of the applicant to U.A.E. on 22-12-2021 through his agent located abroad and from there reached Uzbekistan on 26-12-2021. On 10.01.2002, the agent of the accused took the son of the applicant to Russia, from there he was to go to Guana on 01-01-2022 but was stopped at Ethiopia Airport due to lack of documents and the son of the applicant was stopped there for 4/5 days. On 07-02-2022 came back to Ethiopia Airport U.A.E. On 10.02.2022 came back to India. Thereafter the accused arranged for the flight of the applicant's son to Istanbul Turki on 31-03-2022. After that the agent of the accused told the son of the applicant that if he does not get Rs.3,00,000/- today, then he will not forward the son of the applicant. After that on 22-05-2022 the son of the applicant will return at his home on his own expenses and told the past that in some way the agent of the accused had sent him abroad and sent him back. Now the accused is threatening that if the applicant comes to his house to ask for the money back, he will fire and kill him. In this way, the aforesaid accused, under a well-planned conspiracy, has extorted an amount of Rs. 15,10,000/- by fraud, forgery, on the pretext of sending the applicant's son to America and has sent the applicant's son back home by roaming around in

> other countries. Therefore, you are requested to keep in view the above facts and registered a case against the above accused regarding this fraud, forgery and please recover and return the amount of Rs.15,10,000/- from the above accused. You will be very kind. Dated 26.05.2022 Applicant Shiv Niwas son of Shri Ajmer Singh resident of Village Kathgarh Chapra, Tehsil and District Ambala Mob. 94166-71760. **At Police Station:-** On receipt of the above application in the police station, from the contents of the application and from the investigation report, the offense was found to be under Section 406,420 IPC 10-24 Emigration Act. On this FIR No. 498 dated 28.07.2023 under Section 406,420 IPC and Section 10-24 Emigration Act Police Station Sadar Thanesar has been registered. Computerized FIR copies were prepared after registration of the case, which would be sent through post other higher officials. The Investigation report along with the original application along with the duplicate copy of the police is being sent to the Incharge Police Chowki Sector-5 for further investigation. The above FIR is registered in the presence of ASI Sudesh No. 521, P.S. Sadar Thanesar."

3. Counsel for the petitioner submits that in FIR No.476 dated 21.07.2022, registered for the same offence punishable under Sections 406 & 420 of IPC and Section 10/24 of Emigration Act, 1983 (Section 506 of IPC added later on) involving same set of allegations, the petitioner has been granted concession of regular bail by Coordinate Bench of this Court vide order dated 31.08.2023 passed in CRM-M-31352-2023 observing as under:-

"xx xx xx

3. It is contended by learned counsel that the petitioner has been falsely implicated; that as a matter of fact, police unleashed a reign of terror by abusing the process of law and registered three back-to-back FIRs against him, falsely implicating him. Learned counsel contends that in fact, the petitioner is also the victim, inasmuch as he lost huge amount in unsuccessful attempt to send his son Inderjeet Singh abroad. He intended to send his children and brother Harjeet Singh abroad and in order to arrange funds, he had even sold his land in November, 2022. Still further, it is contended that petitioner had made a deal to send his son Inderjeet Singh to U.S.A. for a sum of ₹28 lacs through one Billa, resident of Jalandhar. Said Billa was introduced to him by one Hira Lal to whom an amount of ₹50,000/- through UPI was sent on 19.08.2021. As the parents of the complainant party were known to the petitioner, they insisted upon him to ask his agent Billa for sending their children to U.S.A. Billa did not provide his account number to the complainant and asked the petitioner to hand over the amount to his agent at Delhi. Complainant transferred the amount in the account of the petitioner, who handed over the same to the associate of Billa. Learned counsel contends that petitioner being a simpleton person, received the amount in his account. Had he been an agent, he would not have got transferred the alleged amount in his account. Still further, it is contended that petitioner is an acute diabetic patient and is on insulin. Learned counsel contends further that investigation is already complete and that during

investigation bank accounts of the petitioner was freezed.

4. As per the status report filed by the respondent-State, medical condition of the petitioner at present is stable, though he is a patient of Diabetes Millitus Type-2. It is contended that petitioner committed cheating on the pretext of sending the son of the complainant to the foreign country, by receiving an amount of ₹15,15,000/- and that allegations against the petitioner being serious and he being a habitual offender being involved in two more cases of similar nature, is not entitled for the bail.

5. Status report regarding latest medical condition of the petitioner was called and as per the medical report dated 22.08.2023, petitioner has medical history of Diabetes Millitus Type-2. He is under treatment from LNJP Hospital, Kurukshetra and the jail hospital. He has been admitted in the hospital from time to time. Of late, he was admitted in the LNJP Civil Hospital, Kurukshetra on 20.07.2023, where he is admitted till date.

6. Apart from the poor medical condition of the petitioner, which is evident from the medical status report dated 22.08.2023 issued by the Medical Officer, District Jail, Kurukshetra, said status report reveals that investigation is already complete in this case. Petitioner is in custody since 26.03.2023. Trial may take long time to conclude.

7. Having regard to all the aforesaid facts and circumstances, particularly the medical condition of the petitioner, but without commenting upon the merits of the case, the petitioner is admitted to bail. He is ordered to be released on bail on his

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> furnishing personal bonds and surety bonds to the satisfaction of learned Trial Court/Duty Magistrate concerned.
>
> Allowed."

4. Granting the parity and keeping in view the incarceration already suffered by the petitioner, the present petition is allowed. Petitioner is ordered to be released on regular bail on his furnishing bail/surety bonds to the satisfaction of the Ld. Trial Court/Duty Magistrate, concerned.

5. Needless to say nothing recorded herein shall be construed to be an expression of an opinion on the merits of the case.

**(PANKAJ JAIN)**
**JUDGE**

**14.09.2023**
Dinesh

Whether speaking/reasoned : Yes

Whether Reportable : No