

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

**CRM-M-47450-2022
Date of Decision: 19.01.2023**

Aman Bawa @ Raghav Kapoor

..... Petitioner

Versus

State of Punjab

..... Respondent

CORAM: HON'BLE MR. JUSTICE HARSH BUNGER

Present: Mr. Randeep Rai, Senior Advocate assisted by
Ms. Radhika Mehta, Advocate
for the petitioner.

Mr. Subhash Godara, Additional A.G., Punjab
for the respondent/State.

Mr. Gurcharan Dass, Advocate
for the complainant.

HARSH BUNGER J. (ORAL)

Present petition is filed under Section 439 Cr.P.C. for grant of regular bail to the petitioner in case bearing FIR No.340 dated 25.09.2019 (Annexure P-1), under Section 420 IPC and Section 13 of the Punjab Prevention of Human Smuggling Act, registered at Police Station Division No.5, District Police Commissionerate Ludhiana, however, report under Section 173 Cr.P.C. is said to have been filed under Sections 120-B & 420 IPC, Section 13 of the Punjab Travel Professional Act and Section 24 of the Immigration Act.

The FIR in question was registered on the basis of a complaint filed by the Principal of Sacred Heart Convent, Senior Secondary School, Sarabha Nagar, Ludhiana, alleging that a trip of school students to NASA/USA was planned in the month of May, 2019, for which purpose, a travel agent, namely Aman Bawa (petitioner herein) approached them and told that he would arrange everything including the Visa for the students and also the teachers. It is alleged that the petitioner demanded an advance of Rs.2,00,000/- (Rupees Two Lacs Only) per student and for total 148 persons, an amount of Rs.3,00,00,000/- (Rupees Three Crores Only) was paid to him in December, 2018 and January/February, 2019. It is alleged that the petitioner was delaying the Visas with *mala fide* intentions and thereafter, the Visa was rejected by the Embassy due to some technical error made by the agent and now the amount is not being refunded to the complainant.

Learned counsel for the petitioner submits that the petitioner has been falsely implicated in the instant case and he has no concern with the Firm-M/s Leisure Holidays Ltd., as he is neither the owner nor partner in the Firm; to which the payment in question was allegedly made by the complainant. It is further submitted that the said Firm is the proprietorship concern of Anju Bawa (mother of the petitioner) and the Firm-M/s Leisure Holidays Ltd. had entered into an agreement / memorandum of understanding (Annexure P-4) with Sacred Heart Convent School. Learned counsel for petitioner has referred to an affidavit (Annexure P-5) executed by parents of one of the student, wherein it has been stipulated that issuance of Visa was at the discretion of the relevant embassy. It is further contended that the Firm-M/s Leisure Holidays Ltd. has instituted a civil suit for

rendition of accounts (Annexure P-6) against Sacred Heart Convent, Senior Secondary School, Sarabha Nagar, Ludhiana. While referring to paragraph No.5 of the civil suit, it is stated that the Firm has refunded some amount to the School and some amount stands refunded to the students also. It is thus contended that the dispute is civil in nature and that too between the Firm-M/s Leisure Holidays Ltd. and the Sacred Heart Convent School and the petitioner has been falsely implicated. It is submitted that the petitioner is in custody since 19.06.2022. Learned counsel submits that the investigation of the case is complete, challan under Sections 120-B & 420 IPC, Section 13 of the Punjab Travel Professional Act and Section 24 of the Immigration Act has been presented and even charges have been framed on 04.01.2020. Learned counsel for petitioner submits that a co-accused, namely Rajinder Singh Bawa (father of the petitioner), has already been granted the concession of regular bail by a co-ordinate Bench of this Court, vide order dated 13.02.2020 (Annexure P-7), passed in CRM-M-1647-2020, titled as ***“Rajinder Singh Bawa Vs. State of Punjab”***. Learned counsel further submits that the petitioner herein is ready to abide by all the conditions as may be imposed by this Court or by the trial Court, accordingly prayer for grant of regular bail is made.

Custody Certificate dated 18.01.2023 of the petitioner is filed by learned State counsel in Court today, which is taken on record, subject to all just exceptions.

Learned State counsel opposes the plea of petitioner for grant of regular bail on the ground of seriousness of the offences and that four more cases are pending against him, which are arising out of this dispute only. However, learned State counsel does not dispute the fact that challan

has been presented in the present case and even charges have been framed on 04.01.2020. It is also not disputed that as per custody certificate, the total custody of petitioner is seven months and one day as on 18.01.2023. It is also conceded by learned State counsel that concession of regular bail has already been granted to the co-accused Rajinder Singh Bawa (father of the petitioner) by a co-ordinate Bench of this Court, vide order dated 13.02.2020, passed in CRM-M-1647-2020.

Learned counsel appearing for the complainant also opposes the prayer of petitioner but does not dispute the fact that the alleged agreement was between the school and the Firm being run by Anju Bawa (mother of the petitioner) and the amount in question was paid in the account of M/s Leisure Holidays Ltd. only. It is also not disputed that the civil suit for rendition of accounts (Annexure P-6) filed by M/s Leisure Holidays Ltd. against Sacred Heart Convent School, is pending.

I have heard learned counsel for the parties and perused the paper book as well as the custody certificate of the petitioner handed over by learned State counsel, in Court today.

As per custody certificate dated 18.01.2023, the petitioner has undergone seven months and one day of custody. The investigation in the matter is complete and the challan stands presented and even charges have been framed on 04.01.2023. The trial is likely to take long time and no useful purpose would be served by keeping the petitioner behind bars. Moreover, co-accused Rajinder Singh Bawa (father of the petitioner) has already been granted the concession of regular bail by a co-ordinate Bench of this Court, vide order dated 13.02.2020, passed in CRM-M-1647-2020.

Keeping in view the aforementioned circumstances, the instant

petition is allowed and the petitioner is ordered to be released on regular bail subject to his furnishing bail/surety bonds to the satisfaction of the trial Court/Illaqa Magistrate/Duty Magistrate concerned. However, the concerned Station House Officer shall be informed about the release of petitioner and the petitioner shall inform the concerned Station House Officer about his address at which he intends to reside during the pendency of case and any change in the address shall also be communicated to the concerned Station House Officer, forthwith. The petitioner would also furnish his telephone number to the concerned Station House Officer. He would also furnish his undertaking to the effect that he will not indulge in any illegal activity.

Nothing expressed hereinabove shall be construed to be an observation on merits of the case and the facts and circumstances recorded above are only for consideration of the prayer for bail at this stage.

The petition is accordingly disposed of.

19.01.2023
Apurva

(HARSH BUNGER)
JUDGE

1. Whether speaking/reasoned : Yes/No
2. Whether reportable : Yes/No