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**IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH****CRM-M-49745-2023 (O&M)****Date of decision: October 09, 2023**

Gurjeet Singh

....Petitioner

versus

State of Punjab

....Respondent

**CORAM: HON'BLE MR. JUSTICE ARUN MONGA****Present:-** Ms. Puja Chopra, Advocate for petitioner.

Mr. Mohit Thakur, AAG Punjab.

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**ARUN MONGA, J. (ORAL)**

Following the denial of bail by the learned trial Court, the petitioner is now before this Court seeking his release as an undertrial in a case FIR No.157 dated 08.06.2023, registered under Sections 406, 420 read with Section 34 of the Indian Penal Code, 1860 (hereinafter referred to as 'IPC') and Section 24 of the Immigration Act, at the Tanda, Police Station in Hoshiarpur.

2. The prosecution's case is that the complainant, Satinderpal Singh, alleged that he came into contact with Onkar Singh through some of his relatives in the year 2019. Onkar Singh met him in Tanda, District Hoshiarpur, and during their discussion, he mentioned Gurjit Singh (the petitioner), claiming that they both worked as travel agents, procuring visas for individuals aspiring to go abroad. The complainant fell prey to Onkar Singh's persuasive words and discussed sending his cousin, Gurpal Singh, who is the son of his uncle Bhupinder Singh, abroad. Onkar Singh and the petitioner reportedly met Gurpal Singh and assured him of obtaining a visa for Italy along with a work permit. They requested his passport and an amount of Rs. 8,50,000/-. In December 2020, an amount of Rs. 1 lakh, along with the necessary documents, was handed over to the petitioner. After some time, the petitioner claimed that the visa had been obtained and that Gurpal Singh's flight was scheduled from

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Delhi to Germany on April 29, 2021. However, due to Covid-19, the flight could not take off. On July 30, 2021, the petitioner contacted the complainant, informing him that Gurpal Singh would board a flight from Delhi to Serbia and requested the balance amount of Rs. 5,50,000/-, arranging a meeting near DAV College road, Dasuya, at a shop selling readymade garments. The complainant visited the said shop, where he met an individual named Ravi Kumar. Onkar Singh and the petitioner also arrived, and an amount of Rs. 5,50,000/- was handed over to them, with videography to record the transaction. However, even after receiving this money, Gurpal Singh was not sent to Italy, and the accused individuals began demanding additional funds. Subsequently, an FIR was registered, and the petitioner has been in custody since July 14, 2023.

3. The learned counsel contends that the petitioner is not the beneficiary of any funds advanced by the complainant for the purpose of arranging immigration, as both the prosecution and the complainant's versions confirm that the money was given to Onkar Singh. The only role attributed to the petitioner is that he was present with Onkar Singh at the time of receiving money from the complainant. The counsel further points out that regarding the recovery of the amount, a compromise was reached between the complainant and Onkar Singh, and subsequently, a cheque was given to the complainant, although it later bounced. The counsel argues that, regardless, Onkar Singh is responsible for the cheque amount, and the complainant can pursue legal proceedings, including actions under Section 138 of the NI Act.

3.1. The learned counsel further submits that the petitioner has no role to play in the alleged offense and has been falsely implicated. There is nothing to be recovered from the petitioner.

4. Conversely, the learned State counsel strongly opposes the petition, expressing concerns about the petitioner's potential flight from trial proceedings if granted bail. He asserts that the allegations against the petitioner are serious, noting that the petitioner is involved in two cases, with bail granted in one of them.

Additionally, the petitioner has been issued production warrants in two cases.

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5. I have heard the rival arguments and reviewed the case file.
6. In response to a query from the Court, under instructions from ASI Narender Singh, learned State counsel informs that the challan has already been filed. Thus, the investigation regarding the petitioner is complete, and he is not required for custodial interrogation.
7. At this stage, the allegations against the petitioner are subject to trial. The trial's progress has been slow, and it is anticipated to take a considerable amount of time. Bail serves the purpose of allowing an accused to remain free until their guilt or innocence is determined. In contrast, the petitioner has been in detention since July 14, 2023, for more than 02½ months.
8. The petitioner's continued preventive custody is based on an unsubstantiated suspicion that he might tamper with evidence or influence witnesses.
9. The petitioner is stated to be a 40-year-old person having a family to look after, a fixed abode, it is unlikely that he poses any flight risk and/or will flee from trial proceedings.
10. Considering the overall scenario, without commenting on the merits of the case, the instant petition is allowed. I am of the view that no useful purpose would be served by keeping the petitioner in further preventive custody.
11. Accordingly, the petitioner is ordered to be released on bail, in case not required in any other case, upon his furnishing bail bonds and surety bonds to the satisfaction of the learned trial Court, where his case is being tried, and in case they are not available, before the learned Duty Judge, as the case may be.
12. In case the petitioner is found involved or gets involved in any offense while on bail, the prosecution shall be at liberty to seek the cancellation of his bail in the instant case.
13. It is made clear that any observations and/or submissions noted hereinabove shall not have any effect on the merits of the case, as they are for the

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limited purpose of the bail hearing alone, and the learned trial Court shall proceed without being influenced by this order.

14. Pending applications, if any, shall also stand disposed of.

(ARUN MONGA)  
JUDGE

October 09, 2023  
mahavir

Whether speaking/reasoned: Yes/No

Whether reportable: Yes/No