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

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CRM-M-4934-2024
Date of decision : 06.02.2024

Baljinder Kaur ...... **Petitioner**

versus

State of Punjab ...... **Respondent**

CORAM : HON'BLE MR. JUSTICE PANKAJ JAIN

Present: Mr. Pankaj Bali, Advocate
for the petitioner.

Mr. Iqbal Singh Mann, DAG, Punjab.

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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.159 dated 10.08.2022, registered for the offences punishable under Sections 406, 420 and 120-B of IPC and Section 13 of The Punjab Travel Professionals (Regulations) Act, 2014 at Police Station Phase-I, SAS Ngar.

2. As per the contents of the FIR, it has been alleged as under:-

> "Today, one application No. 3151/Peshi/SSP/SAS Dated 07.09.2018, submitted by Varinder Singh Son of Major Singh, resident of Village Teontha Haryana was received at the police station through the respected S.S.P. Sahib SAS Nagar by hand through HC Tavinder Singh No. 803/SAS for registering the case, contents of the same are as under:- "To the respected S.S.P. Sahib,

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Police Department, Punjab, Sector 67, Mohali. No. 3151/Peshi/SSP Dated 07.09.2008. Sir, it is respectfully submitted that I, Virender Singh son of Sh. Major Singh, am resident of Village Teontha, Tehsil Pundri, District Kaithal (Haryana). I have been fell prey of cheating by one agent. The matter is this that I was gone to International Immigration, Phase-5, Mohali along with one of my relative, because, my relative applied file for Visa of his children before Madam Shelly. Then, I also asked regarding my tourist visa. Then, the International Immigration employees, by making a phone call, met with an agent named Rehan Malik. Then, Rehan Malik said to me that I, will get your visa with family of Canada approved and deal was settled with Rehan Malik for a sum of Rs. 12,00,000/- (Rupees Twelve Lacs) for Canada Visa. One my friend named Suratpal Singh son of Sh Amrik Singh, resident of Hawari District Kaithal (Haryana) was also present with me and he talk was also held for a sum of Rs. 12,00,000/-(Rupees Twelve Lacs) for visa of Canada. Rehan Malik took my phone number. He made a phone call to me after two days that if you have to apply the file, then come to my office at Mohali by bringing your documents etc. and he sent E.Mail regarding necessary documents. After preparing all documents, we were gone to meet him at Success Immigration Centre phase-7 Mohali and he demanded Rs. 35,000/- from Virender Singh for Embassy fee and demanded Rs. 45000/- from Suratpal Singh for Embassy Fee. We, after withdrawing money from A.T.M. of Axis Bank Branch there and gave to him, but he wanted to take money in cash. He said that I take file only, but file is prepared by my Sir, Ajay Morya and he also applies. Thereafter, they, after preparing my file and submitted the same in the Embassy and about 2 months, they made a phone call to me that your visa has been come, but, visa of your friend, Suratpal Singh has not yet been come. Then I asked from them that is visa of my wife and son has also been approved. Then they told that at present, visa of only yours and your wife has been approved and visa or your son has not been approved. Thereafter, I was gone in Phase-7 Mohali to meet them. Then he said that I have left the office and now I prepare the file at home and he asked me to meet at K.C.F. in Phase-7, Mohali. One madam Meenu was also come with him there and he said to me that once you go to Canada alone and come back after some days. After getting visa of your wife and your son approved, I will sent them next time along with you. Then, thereafter, On dated 6.6.2018, 1 gave him Rs. 700000/- and a self cheque of Rs. 200000/- from Account of my brother, Amritpal Singh vide cheque No: 037954 and the same was got cashed by them with the name of a person named Kuldeep Singh and thereafter, he gave my passport and passport of my wife to me, on which Visa of Srirer, Canada was attached. But, he did not give passport of my son to me, because, an amount of Rs. 2,00,000/- was to be given to him after approval of visa. Thereafter, I sent Rs. 100000/- (Rupees One Lac) on dated 7.6.2018 through on-line from my Account to Rehan Malik in A/c No. 12782191024137. Thereafter, on dated 5.7.2018, I was gone to meet him in Mohali, then he met me outside at some place. I asked about my file and ticket, then he said that ticket will have to be taken by yourself. I took ticket of Rs. 76000/- and he said that I have attached all documents in original in your file and you will not face any difficulty. Thereafter, on dated 10.7.2018, my flight of Canada was come and when I reached at Canada Airport, then the immigration officer of there, took my interview. He asked form me that which countries you have gone prior to this. Then I told where I was actually gone i.e. Thailand, Malaysia, Indonesia etc. Then they asked that, "Have you gone to China, Dubai, New Zealand countries. Then I said that I have not gone to these countries and there is no stamp of these countries on my passport. Then they showedmy file, in which, visit-history of those countries was shown by the agent, where I was not gone. Then, they took me in police custody and upon telling truth by me to them that all this fraud has been done by my agent, they sent back me to India after three days. When, after coming back, made a phone call to Rehan Malik, then he started saying that you would have brought some wrong items or goods, due to this reason, you have been sent back. Thereafter, I applied through RTI in Canada Embassy for telling me correct reason of sending back to me. Then they wrote clearly to me that your visa has been cancelled due to your Fake Travel History. Then, I made a phone call to Rehan Malik and said to him that I have to meet you. Then, he said to me to meet him on dated 15.8.18 in Mohali and along with this, he said to me to return the money. When, on dated 15.8.18, I was become ready to meet him in the morning at Mohali, then he

> sent a Video on Whatsapp and said that, " I am going out of country for some days and after return I will meet you". But, after that time, he phone is also being found switched off and no contact was made with him. Thereafter, when I wanted to talk to his colleague, Ajay Morya, then he has put my phone number in Block List. No contact with both of them has been made. Thereafter, I was gone in Phase-8, Plot No.167, Industrial Area, SAS Nagar, Mohali, where, after coming of my visa, my passport was dispatched from Delhi. On my request, they told that my passports have been held by a person named Ajay Morya and they also showed signature of Ajay Morya and photocopy of his Aadhar Card in their register. When I was gone to their Office Success Centre, then the it was also closed. Sir, I am in very much tension due to these agents. It is requested to your goodself that my problem may kindly be solved at the earliest and strict action may be taken against the agents. xxxxx”

3. Counsel for the petitioner submits that the petitioner was participating in the business with one Ramandeep Singh and has been nominated in the present matters only for that reasons. He further submits that in all the FIRs pending, the petitioner has been nominated being wife of main accused Ekem Singh, who happens to be her husband. Further submits that the petitioner is behind bars since 28.10.2022. Challan stands presented on 24.12.2022 and despite the fact that more than a year has passed, the charges have been framed leave aside examining any witnesses. Resultantly, the trial is not likely to conclude in the near future. It is a magisterial trial, wherein the

petitioner has been arraigned as co-accused and has mother to minor child, who is less than 06 years old. The custody of the petitioner should not be prolonged once investigation stands concluded and the police report stands filed.

4. State counsel submits that there are about 19 cases in which the petitioner has been arraigned as accused and joins the issue with respect to the petitioner being a dormant partner and contends that in the present international education company, the petitioner was owner with Ramandeep Singh as per the partnership deed and the husband of the petitioner has no role to play. He further submits that a false defence has been created in form of petition under Section 13B of HMA Act which stands dismissed for non prosecution

5. Counsel for the petitioner however submits that the same has been dismissed for non-prosecution not for the reason that the petitioner was not pursuing this case but for the reason that the petitioner being in custody for more than 01 year and 03 months could not pursue the same.

6. Having heard rival contentions and after going through the records of the case, keeping in view the fact that it is a magisterial trial wherein the police report stands filed long back on 24.12.2022 and in last more than one year, not even a single prosecution witness could be examined and the fact that the petitioner is a woman and a mother of minor child, the present petition is allowed. Petitioner is ordered to be released on regular bail on her furnishing bail/surety bonds to the satisfaction of the Ld. Trial Court/Duty Magistrate, concerned.

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7. 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

06.02.2024
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Whether speaking/reasoned :	Yes
Whether Reportable :	No