

CRM-M-20410-2024

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-20410-2024
Reserved on: 06.08.2024
Pronounced on: 30.08.2024

Sumit ...Petitioner

Versus

State of Haryana ...Respondent

CORAM: HON'BLE MR. JUSTICE ANOOP CHITKARA

Present: Mr. Arun Sharma, Advocate
for the petitioner.

Mr. Rajat Gautam, Addl. AG, Haryana.

Mr. Pankaj Bali, Advocate
for the complainant.

ANOOP CHITKARA, J.

FIR No.	Dated	Police Station	Sections
120	21.02.2023	Indri, District Karnal	406, 420, 506 IPC and 24 of Immigration Act 1983 added later on

1. The petitioner incarcerated in the FIR captioned above had come up before this Court under Section 439 CrPC, 1973, seeking regular bail.

2. As per paragraph 6 of the reply, the petitioner/accused has the following criminal antecedents:

Sr. No.	FIR No.	Date	Offenses	Police Station
1	502	12.07.2022	406/420 IPC and 24 of Immigration Act	Civil Lines, Karnal
2	168	2023	406/420 IPC and 24 of Immigration Act	Thanesar, District Kurukshetra
3	1253	11.12.2019	406/420/506 IPC and 24 of Immigration Act	Sadar, Karnal

3. The facts and allegations are being taken from the reply filed by the State, which reads as follows:

“.... a complaint was moved by Suresh Kumar S/o Sh. Babu Ram R/o Kartarpur, Chatar Singh S/o Phool Singh R/o Village Lovkari and Tejpal S/o Sh. Arja Nand R/o Village Umarpur against Sumit Sharma S/o Sh. Bharat Bhusbhan Sharma R/o H.No. 196, Mann Colony, Karnal presently

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R/o Pal Nagar, Karnal to the Superintendent of Police, Karnal, regarding cheating on the pretext of sending abroad of their sons. In their complaints, the complainants alleged that accused Sumit Sharma is permanent resident of village Sandeer, Tehsil Nilokheri, District Karnal and he had contacted their children Sahil son of Suresh Kumar, Ankit son of Tejpal, Vishal son of Chatar Singh saying that he do the work of sending children abroad and he misled their children. Their children started saying that agent Sumit Sharma does work of sending children abroad and he can send them abroad. That Agent Sumit Kumar gave an agreement in writing on 18.11.2021 in the name of sending Sahil, Vishal and Ankit abroad, which he agreed to send the above three from Dubai to Tanzania and from Tanzania to Colombia and from Colombia to Honduras by air and from Honduras via Mexico had promised to get crossed the America border, a copy of which is enclosed and after this the details of the amount received from them are as follows. After that he took passports and other documents from their children and took Rs. 13,50,000/- from Sahil son Suresh in the name of sending abroad, out of which Rs. 2,00,000/- was transferred through RTGS from the accounts of his relatives Manju Devi daughter of Ram Lal resident of Lal Chhappar and Vikas son of Ram Lal resident of Lal Chhappar. Suresh had transferred Rs. 11,00,000/- from ICICI Bank Indri after arranging the money. In this manner, he gave Rs. 5,00,000/- once, Rs. 75,000/- twice and then Rs. 3,00,000/- when his son was trapped in the middle and his passport was not given, the above agent took Rs. 13,50,000/- from him for getting Sahil back. The above agent Sumit Kumar had received Rs. 6,25,000/- through RTGS and Rs. 75,000/- three times, amounting Rs.8,50,000/- from Ankit son of Tejpal in the name of sending him abroad. The bank details are also attached. That agent Sumit Kumar received Rs.7,50,000/- in cash in the nae of sending Vishal son of Shri Chatar Singh to abroad. The agent Sumit Sharma was unable to send Sahil abroad and he got trapped in the middle and he had taken another Rs. 3,00,000/- more to bring him back as per the above statement and then his son has returned to the village 2/3 days back. There is no trace of their two children Vishal and Ankit till now. The above agent Sumit Kumar has either sold their children somewhere or he had made them slaves somewhere and is getting done work from them and he is not telling them anything in this regard. And when they tried to question him by holding a panchayat, then the accused threatened that just like their two children are not traceable, their families will also not be traced and he will get them both killed outside if they have filed any complaint in police. Accused Sumit has cheated them by creating a fraud of Rs. 30,00,000/-. They have repeatedly requested him to call back both of their children and return the money. On the said complaint, case bearing FIR No. 120 dated 21.02.2023 U/S 406/420/506 of IPC Police Station Indri, Karnal was registered against the petitioner/accused Sumit.”

4. The petitioner's counsel prays for bail by imposing any stringent conditions and contends that further pre-trial incarceration would cause an irreversible injustice to the petitioner and his family.

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5. The State’s counsel opposes bail and refers to the reply.
6. It would be appropriate to refer to the following portions of the reply, which read as follows:

“8. That there are serious allegations against the petitioner/accused. It is further submitted that a specific role has been attributed to the petitioner/accused in committing the offence. The petitioner/accused has committed the offence of cheating of rupees in lakhs with the complainants inducing them to send their sons to America in a legal way but the petitioner did not sent the complainant's sons to America. The trial in the present case is still going on and material prosecution witnesses are yet to be examined. In such circumstances, there is very apprehension that in case the petitioner/accused is enlarged on bail, he might influence the prosecution witnesses and abscond from the process of law. Hence, considering the seriousness and gravity of offence, the petitioner does not deserves the concession of extraordinary relief of bail at this stage, thus the present petition deserves to be dismissed.”

7. There is sufficient primafacie evidence connecting the petitioner with the alleged crime. However, as per paragraph 4 of the bail petition, the petitioner has been in custody since 14-12-2023. As per the custody certificate dated 05.08.2024, the petitioner’s total custody in this FIR is 07 months & 21 days. Given the penal provisions invoked viz-a-viz pre-trial custody, coupled with the primafacie analysis of the nature of allegations, and the other factors peculiar to this case, there would be no justifiability further pre-trial incarceration at this stage.
8. Without commenting on the case's merits, in the facts and circumstances peculiar to this case, and for the reasons mentioned above, the petitioner makes a case for bail. This order shall come into force from the time it is uploaded on this Court's official webpage.
9. Given above, provided the petitioner is not required in any other case, the petitioner shall be released on bail in the FIR captioned above subject to furnishing bonds to the satisfaction of the concerned Court and due to unavailability before any nearest Ilaqa Magistrate/duty Magistrate. Before accepting the surety, the concerned Court must be satisfied that if the accused fails to appear, such surety can produce the accused.
10. While furnishing a personal bond, the petitioner shall mention the following personal identification details:

1.	AADHAR number	
2.	Passport number (If available) and when the attesting officer/court considers it appropriate or considers the accused a flight risk.	
3.	Mobile number (If available)	
4.	E-Mail id (If available)	

11. The petitioner shall abide by all statutory bond conditions and appear before the

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concerned Court(s) on all dates. The petitioner shall not tamper with the evidence, influence, browbeat, pressurize, induce, threaten, or promise, directly or indirectly, any witnesses, Police officials, or any other person acquainted with the facts and circumstances of the case or dissuade them from disclosing such facts to the Police or the Court.

12. Any observation made hereinabove is neither an expression of opinion on the case's merits nor shall the trial Court advert to these comments.

13. A certified copy of this order would not be needed for furnishing bonds, and any Advocate for the Petitioner can download this order along with case status from the official web page of this Court and attest it to be a true copy. If the attesting officer wants to verify its authenticity, such an officer can also verify its authenticity and may download and use the downloaded copy for attesting bonds.

14. **Petition allowed** in terms mentioned above. All pending applications, if any, stand disposed of.

(ANOOP CHITKARA)
JUDGE

30.08.2024
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Whether speaking/reasoned: Yes
Whether reportable: No.