

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-23460-2024
Reserved on: 12.11.2024
Pronounced on: 29.11.2024

Arshdeep Singh ...Petitioner

Versus

State of Punjab ...Respondent

CORAM: HON'BLE MR. JUSTICE ANOOP CHITKARA

Present: Mr. B.S. Aulakh, Advocate,
for the petitioner.

Mr. Akshay Kumar, AAG, Punjab.

ANOOP CHITKARA, J.

FIR No.	Dated	Police Station	Sections
237	08.07.2023	City Faridkot	406, 420, 506, 120-B IPC and Section 13 of Travel Professionals Regulation Act

1. The petitioner apprehending arrest in the FIR captioned above has come up before this Court under Section 438 CrPC, seeking anticipatory bail.

2. As per the paragraph 9 of the bail petition and as per paragraph 7 of the reply, the accused has the following criminal antecedents:

Sr. No.	FIR No.	Dated	Offenses	Police Station
1.	199	04.06.2023	406, 420, 465, 467, 477, 506, 120-B IPC and Section 13 of Travel Professionals Regulation Act	City Faridkot
2.	202	07.06.2023	406, 420, 465, 506, 120-B IPC and Section 13 of Travel Professionals Regulation Act	City Faridkot
3.	223	27.06.2023	406, 420 IPC and Section 13 of Travel Professionals Regulation Act	City Faridkot
4.	228	03.07.2023	406, 420 IPC and Section 13 of Travel Professionals Regulation Act	City Faridkot
5.	219	26.06.2023	406, 420, 120-B IPC and Section 13 of Travel Professionals Regulation Act	City Faridkot
6.	238	08.07.2023	406, 420 IPC and Section 13 of Travel Professionals Regulation Act	City Faridkot
7.	243	13.07.2023	420, 120-B IPC and Section 13 of Travel Professionals Regulation Act	City Faridkot
8.	275	03.08.2023	420, 120-B IPC and Section 13 of Punjab Travel Professionals (Regulation) Act, 2014	City Faridkot, Distt. Faridkot

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

“3. That the FIR No. 237/2023 is an outcome of preliminary enquiry initiated on the basis of a complaint no. 789-PC-8/23 dated 25-5-2023 made by Sandeep Kaur w/o Amanpreet Singh r/o Village Saidpur, District Tarn Taran against i) Deepak Sharma ii) Parshotam Lal iii) Shikha Sharma w/o Deepak Sharma iv) Arsh- present petitioner, with the allegations of cheating and fraud of Rs. 11,63,000/- on the pretext of sending her abroad in Canada on study Visa.

4. That the preliminary inquiry was conducted by Superintendent of Police (H), Faridkot and it came out that the victim-complainant had contacted co-accused Deepak Sharma Prop. MBE Immigration Faridkot and held a meeting in his office at Faridkot on 06-8-2021 in the presence of petitioner and co-accused Shikha Sharma and Parshotam Lal. Deepak Sharma demanded Rs. 12,00,000/- from complainant to get her study visa. Complainant paid Rs. 45,000/- in cash on the same day. Then complainant's father in law Malkiat Singh had transferred an amount of Rs. 5,42,023/- in favour of Deepak Sharma from his bank account no. 304594xxxxx. The complainant had transferred an amount of Rs. 6,20,000/- on 17-8-2021 from her bank account no. 66130100xxxxxx in favour of co-accused's Deepak Sharma firm. To prove the allegations, complainant had produced the statements of their bank accounts. When the accused could not get Visa to the complainant after waiting for a considerable period, the complainant demanded their money back. Then in January 2023, accused called the complainant to his office and handed over two cheques worth of Rs. 5,50,000/- and Rs. 6,00,000/- but those cheques stood dishonoured on their presentation. But when complainant party again approached the co-accused Deepak Sharma, they were shown pistol by Deepak Sharma and threatened to kill them. The present petitioner along with Shikha Sharma and Parshotam Lal connived with the prime accused Deepak Sharma.”

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.

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:

"6. Role of the petitioner:

That the present petitioner was working as a Manager in the firm MBE Immigration. The amount was received by prime accused Deepak Sharma from victims in fraudulent manner in the presence of petitioner. There are number of persons who were deceived by accused and dealings in every case had taken place at their office situated at Fountain chowk, Faridkot where petitioner was always present. The intentions of accused were dishonest since the beginning and petitioner had knowingly connived with prime accused Deepak Sharma in playing deception upon the victims."

7. A perusal of the allegations and the reply explicitly point out that the petitioner was working as the Manager of the main accused, Deepak, but there is no allegation that the petitioner is running or owning the business with Deepak or a business partner. However, suppose some amount is found to have been received by the petitioner as his commission or cut during the investigation. In that case, the investigator shall take all steps to recover the same, and if unable to recover, the State may file an application for cancelation of this bail.

8. Pre-trial incarceration should not be a replica of post-conviction sentencing. The evidence might be prima facie sufficient to launch prosecution or to frame charges, but this Court is not considering the evidence at that stage but is analyzing it for the stage of anticipatory bail. An analysis of the above does not justify custodial interrogation or pre-trial incarceration.

9. The Police did not arrest the petitioner; if they intended to arrest the petitioner, it was not impossible. A perusal of the reply does not point out the steps taken to arrest the accused.

10. Given the above, the penal provisions invoked coupled with the prima facie analysis of the nature of allegations and the other factors peculiar to this case, there would be no justifiability for custodial interrogation or the pre-trial incarceration at this stage. 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.

11. The investigation indicates that the petitioner is not the main accused, so the petitioner's bail shall not be treated as a precedent for granting bail to the other co-accused with a higher role.

12. Given above, provided the petitioner is not required in any other case, the petitioner shall be released on anticipatory bail in the FIR captioned above subject to furnishing bonds to the satisfaction of the Arresting Officer, and if the matter is before a Court, then the concerned Court and due to unavailability before any nearest Ilaqa Magistrate/duty Magistrate. Before accepting the surety, the concerned Officer/Court must be satisfied that if the accused fails to appear, such surety can produce the accused.

13. 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)	

14. This order is subject to the petitioner’s complying with the following terms.

15. The petitioner is directed to join the investigation within seven days of uploading this order on the official webpage of the High Court of Punjab and Haryana and as and when called by the Investigator. The petitioner shall be in deemed custody for Section 27 of the Indian Evidence Act, 1872/ Section 23 of BSA, 2023. The petitioner shall join the investigation as and when called by the Investigating Officer or any Superior Officer and shall cooperate with the investigation at all further stages as required. In the event of failure to do so, the prosecution will be open to seeking cancellation of the bail. During the investigation, the petitioner shall not be subjected to third-degree, indecent language, inhuman treatment, etc.

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

17. In case the Investigator/Officer-In-Charge of the concerned Police Station arraigns another section of any penal offense in this FIR, and if the new section prescribes a maximum sentence that is not greater than the sections mentioned above, then this bail order shall be deemed to have also been passed for the newly added section(s). However, suppose the newly inserted sections prescribe a sentence exceeding the maximum sentence prescribed in the sections mentioned above; then, in that case, the Investigator/Officer-In-Charge shall give the petitioner notice of a minimum of seven days,

providing an opportunity to avail the remedies available in law.

18. This bail is conditional, and the foundational condition is that if the petitioner indulges in any non-bailable offense, the State may file an application for cancellation of this bail before the Sessions Court, which shall be at liberty to cancel this bail.

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

20. 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.

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

(ANOOP CHITKARA)
JUDGE

29.11.2024
Anju rani

Whether speaking/reasoned:	Yes
Whether reportable:	No