

2024:PHHC:107721



131.

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

CRM-M-25987-2024

Date of decision: 21.08.2024

Dharminder Singh

.... Petitioner

Versus

State of Punjab

.... Respondent

CORAM: HON'BLE MR. JUSTICE GURBIR SINGH

Present: Mr. Sandeep Kumar, Advocate, for the petitioner.

Ms. Manjot Kaur, AAG, Punjab.

GURBIR SINGH, J.

1. This petition has been filed under Section 439 of Cr.P.C. for grant of regular bail to the petitioner in case FIR No.156, dated 26.08.2023, registered under Sections 420, 120-B of IPC, 1860 and Section 24 of Emigration Act, 1983 at Police Station Salem Tabri, District Ludhiana.

2. The aforesaid FIR was registered on the complaint of Gurcharan Singh that he wanted to go abroad. Satnam Singh and Sanjeev Kumar met him and gave assurance that they knew a person who could get his visa approved as he had already sent many people abroad. In April, 2022, Satnam Singh got the complainant introduced with Balbir Singh and Dharminder Singh (petitioner herein), in his house. They demanded Rs.12 lakhs for sending him to Canada. On 22.04.2022, the complainant gave Rs.25,000/- in cash to Balbir Singh in the presence of Satnam Singh and

another Rs.25,000/- were transferred in the account of Balbir Singh. After some days, Satnam Singh called him and stated that on 26.04.2022, Balbir Singh brought LMIA document of Pride Park Company in which the complainant will be provided work and thereafter, they obtained his signatures on LMIA document and got submitted his fingerprints at the Canadian Embassy. Thereafter, the complainant received form from Balbir Singh in the first week of May that his visa was approved and he should come to the house of Satnam Singh and check visa on his passport. Accordingly, he went there and they showed him the Canada visa on his passport and kept the passport with them and demanded Rs.4,50,000/-. After two days, the complainant gave Rs.4,50,000/- in cash in the house of Satnam Singh to Balbir Singh, Satnam Singh and Dharminder Singh (petitioner herein) in the presence of Gagandeep Singh. Thereafter, they demanded the remaining amount for buying tickets. The complainant paid Rs.4,35,000/- and Rs.2,65,000/-. After this, they started making excuses that due to Corona virus, they were facing difficulties. They gave tickets of 07.09.2022 along with the tickets of Manish Kumar and Jashan. They promised to give tickets of 13.09.2022 but the complainant came to know from one Vikas Kumar that the accused have played fraud with him and have given forged visa.

3. Learned counsel for the petitioner has argued that the petitioner has been falsely implicated in the present FIR. No role has been attributed to the petitioner by the complainant of taking any money,

documents or any role in his visa. The main allegations are against Satnam Singh and Balbir Singh. Balbir Singh showed fake visa to the complainant. Satnam Singh allured the complainant for the visa and when the fraud was exposed, said Satnam Singh returned Rs.2 lakhs to the complainant, but despite that, police have not recommended FIR against Satnam Singh and his son Sanjeev Kumar. Petitioner is nowhere associated with the co-accused. He is in custody since 05.03.2024. Nothing is to be recovered from the petitioner. No useful purpose would be served by keeping the petitioner behind bars any longer.

4. Learned State counsel has opposed the bail to the petitioner by contending that the amount of Rs.4.50 lakhs was paid to Balbir Singh and the petitioner. The visa issued to the complainant was found to be fake. The petitioner was working as Travel Agent. The petitioner has committed the crime in conspiracy with co-accused Balbir Singh. She has stated that on investigation, Satnam Singh and his son Sanjeev Kumar were found to have committed no offence against the complainant. She has further argued that petitioner is found to have been involved in two other cases i.e. (i) FIR No.179, dated 19.09.2022, under Sections 420, 467, 468, 471, 506, 120-B of IPC, Police Station Salem Tabri, Ludhiana; and (ii) FIR No.173, dated 23.09.2023, under Sections 420, 467, 468, 471, 120-B of IPC, Police Station Salem Tabri, Ludhiana. He has committed a heinous crime of cheating and is not entitled for the concession of bail.

4.1 To refute the contention of learned State counsel regarding involvement of the petitioner in two other cases, learned counsel for the petitioner submits that in those cases, the petitioner is already on bail and is facing trial.

5. I have heard the submissions of learned counsel for the petitioner, learned State counsel and have gone through the paper book.

6. The allegations against the petitioner are that he in conspiracy with co-accused has committed the offence of cheating with the complainant. However, there is no document that any amount was paid to the petitioner. Rather the allegations are against Satnam Singh and Balbir Singh. The culpability of the petitioner would be determined during trial. Challan in the case has been presented, however, charges are yet to be framed.

6.1. Considering the fact that the petitioner is in custody since 05.03.2024 and trial in the case will take some time to conclude, this Court deems it appropriate to release the petitioner on regular bail.

7. Accordingly, without commenting on the merits of the case, the present petition is allowed and the petitioner is ordered to be released on regular bail subject to his furnishing bail bonds/surety bonds to the satisfaction of concerned learned trial Court/Chief Judicial Magistrate/Duty Magistrate, with the further condition that he shall get his mobile number registered in the trial Court for receiving messages on CIS system and shall not change his mobile number during the pendency of the case except with

the permission of concerned. He shall also furnish his residential address to the trial Court as well as to the concerned police station and shall not change his residence without intimation to the concerned police station. In case of default, the trial Court is free to cancel the bail granted to the petitioner.

8. However, it is made clear that anything stated hereinabove shall not be construed as an expression of opinion on the merits of the case and the trial Court shall decide the case on the basis of material available before it.

(GURBIR SINGH)
JUDGE

August 21, 2024
sanjeev

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