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

**CRM-M No.28270 of 2024
Reserved on: 16.10.2024
Pronounced on: 19.10.2024**

Satbir Singh @ Satveer Singh Sandhu **...Petitioner**

Versus

State of Punjab **…Respondent**

CORAM: **HON'BLE MR. JUSTICE ANOOP CHITKARA**

Present: Mr. G.S. Bains, Advocate
for the petitioner.

Mr. Akshay Kumar, AAG, Punjab.

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ANOOP CHITKARA, J.

FIR No.	**Dated**	**Police Station**	**Sections**
73	03.05.2024	Civil Lines Patiala, District Patiala.	406, 420 IPC

1. The petitioner apprehending arrest in the FIR captioned above has come up before this Court under Section 438 CrPC, 1973, seeking anticipatory bail.

2. In paragraph 18 of the bail petition and the reply/custody certificate, the accused has the following criminal antecedents:

Sr. No.	**FIR No.**	**Date**	**Offenses**	**Police Station**
1.	104	26.06.2020	Under sections 406, 420 IPC	Urban Estate Patiala
2.	12	04.02.2020	Under section 420 IPC	Sandhaur District Malerkotla

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

"3. That the brief facts of the case are that case FIR No.73 dated 03.05.2024 U/s 406, 420 of IPC Police Station Civil Lines Patiala was registered after due enquiry on the basis

of written complaint filed before Senior Superintendent of Police, Patiala by Gurmail Singh son of Kesar Singh resident of Village Tunga Tehsil Nabha District Patiala with the allegations that accused Satbir Singh son of Sh. Rajwinder Singh (C/o Student World, MS.C.O. 23, First Floor, Near Kamal Laboratory, New cate Leela Bhawan Patiala) Market, had taken Rs. 16,50,000/- from his daughter-in-law Sandeep Kaur and niece Amanpreet Kaur for sending them to Australia on Study Visa on 02.04.2017, but he neither sent them to Australia nor returned their money. Then on 16.08.2018, he entered into an agreement and issued two cheques bearing No.109193 dated 24.09.2018 and cheque No.109194 dated 01.10.2018 both amounting to Rs.7,60,000/- each, but said cheques on presentation before the bank by him for encashment thereof were received back as dishonoured. Thereafter, on 02.09.2019, the accused executed another agreement and issued new cheques, but same were also dishonoured. Thereafter, when he demanded his money back, the accused refused to return the same. The written complaint of Gurmail Singh was marked by worthy Senior Superintendent of Police, Patiala vide 12808/Peshi dated 20.12.2022 to Superintendent of Police (Investigation) Patiala for enquiry. Then the Superintendent of Police (Investigation) Patiala enquired the matter in depth through In-charge C.I.A. Patiala and has concluded that the accused had committed cheating with the complainant by inducing him to send his daughter-in- law Sandeep Kaur and niece Amanpreet Kaur to Australia and received Rs.16,50,000/- from them in cash as well as through RTGS. Even the accused had entered into compromise with the complainant on 16.08.2018, but he failed to comply with said compromise as he neither sent Sandeep Kaur and Amanpreet Kaur to Australia nor returned the money. Then, again compromise was effected between the parties and as per compromise accused issued cheques in favour of complainant but those cheques were also dishonoured on presentation before the Bank due to insufficient funds in his account. During the course of enquiry, it has further been revealed that two other FIRs of similar nature i.e. FIR No.104 dated 26.06.2020 U/s 406, 420 of IPC Police Station Urban Estate Patiala and FIR No.12 dated 04.02.2020 U.s 420 of IPC Police Station Sandhaur District Malerkotla have also been registered against the present accused. The enquiry officer has issued notices to the accused and even sent text messages on his mobile phone, but the accused has failed to join the enquiry and put his version before the enquiry officer. Since Travel Agent Satbir Singh mentioned above has cheated the complainant by inducing him to send his daughter-in- law Sandeep Kaur and niece Amanpreet Kaur to Australia and received Rs. 16,50,000/- from them in cash as well as RTGS, but has failed to send them abroad and instead issued fake document and air tickets hence committed offence U/s 406, 420 of IPC. During the course of enquiry, no incriminating material/ evidence has come on file against Harpreet Kaur wife of accused Satbir Singh hence recommended for registration of FIR only against accused Satbir Singh and sent his enquiry report vide No.713/C/S.P./ Investigation Patiala dated 25.08.2023 before worthy Senior Superintendent of Police, Patiala. True translated copy of enquiry report of Superintendent of Police, Investigation Patiala No.713/C./S.P./ Investigation Patiala dated 25.08.2023 is attached herewith as Annexure R-1/T."

4. The petitioner's counsel submits as follows:

"*1. Petitioner did his job, got Sandeep Kaur admitted in Australian college and deposited college fee and insurance that comes to approx. 11 lac as such there is no dishonest intention on the part of petitioner.*

2. In absence of dishonest intention since inception no offence u/s 406, 420 IPC made out.

3. Later on Sandeep Kaur changed her mind and withdrew admission and also applied for refund of college fee, and went to some other country petitioner cannot be held liable as there is no fault on his part

4. In the enquiry report (R-1/T) placed on record by State there is no mention of any notice ever issued to petitioner calling him to join the enquiry.

5. Section 41, 41-A Cr.P.C. not complied with. In status report there is no mention of any notice issued to petitioner to join investigation. Directions of the Hon'ble supreme Court in Arnesh Kumar judgment 2014(8) SCC 273 (flag 4) violated.

6. Complainant in affidavit dated 12-7-2024 falsely alleged that no fee was deposited for admission of petitioner. In the indemnity bond alongwith application for refund which is signed by Sandeep Kaur same CIN number is mentioned by Sandeep Kaur which is there in the fee receipt (P-3), this shows that complainant filed false affidavit in this Hon'ble Court denying admission and refund of fee Photocopy of P-3 bearing signature of Sandeep Kaur is attached herewith (with petition typed copy was attached).

7. Complaint alleged that forged ticket and foreign document was given by petitioner however till date no such alleged forged document has seen the light of day.

8. Delay of 6 years in FIR

9. In similar cases of Parshottam Sharma 2023(4) RCR criminal 66 (flag1) and Kirandeep Kaur Law finder doc id 202211 (flag 2) this Hon'ble Court granted anticipatory bail

10. It is settled law by the Hon'ble Apex Court in Prabhakar Tewari 2020(11) SCC 648 (flag 3) and Maulana Mohd Amir Rashadi 2012(2) SCC 382 that pendency of other criminal cases is no ground to reject bail."

5. 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 their family.

6. The State's counsel opposes bail and refers to the reply.

7. It would be appropriate to refer to the following portions of the reply, which read as follows:

"7. The role of the petitioner: The accused had committed cheating with the complainant by inducing him to send his daughter-in-law Sandeep Kaur and niece Amanpreet Kaur to Australia and received Rs. 16,50,000/- from them in cash as well as through RTGS. Even the accused had entered into compromise with the complainant twice and issued cheques with malafide intention, but the same have been dishonoured due to insufficient funds in his bank account. Moreover, the accused/petitioner has failed to appear before the enquiry officer to join the

enquiry and to put his version before the enquiry officer even enquiry officer has issued notices to the accused.

8. The evidence against the petitioner:- The incriminating evidence available against the accused is in the nature of two agreements through which he had undertaken to repay the amount obtained by him for sending the daughter-in-law and niece of the complainant abroad, which are material admissions made by the accused and are proof of his complicity in the offence. Furthermore, the issuance of forged documents purportedly issued by Australian Government and air tickets by the accused are also incriminating evidence available against the accused as if he did not harbor any dishonest intention, there was no necessity for him to issue forged and fabricated documents to the daughter-in-law and niece of the complainant. It is also worthy to mention here that the accused has not refuted any of the above said forged documents or the agreements entered by him for return of the money obtained by him, nor has he challenged the veracity of the transaction of receipt of money by him from the complainant to the tune of Rs. 16,50,000/- in cash as well as through RTGS, which fact is rather substantiated from the act of execution of agreements undertaking to return the amount obtained by the accused."

8. On 3rd July 2024, this Court had passed the following order,

" Counsel for the petitioner submits that around Rs.11 lacs were spent on insurance and fee deposited in the university and the counsel further submitted that subsequently the complainant changed her mind and took admission in some other University and also got some refund from the University, however, counsel for the complainant disputes such stand. Let the complainant file an affidavit in this regard.

Let the affidavit be filed positively by the next date of hearing, failing which this Court might draw an adverse inference.

Let the petitioner also consider handing over receipt and other proofs of deposit of fee and insurance expenditure, if they want to do so. This Court is not insisting on such statement as it might be an admission and incriminating factor.

Counsel for the petitioner has drawn attention of this Court to Annexure P-5. Believing the statement of counsel for the petitioner that he has deposited around Rs.11 lacs towards insurance and fee, there shall be stay of arrest of the petitioner subject to the condition that in case the Investigator calls him to join investigation, the petitioner shall join investigation. It is clarified that this Court is not directing the Investigator to join the petitioner into investigation.

List on 10.07.2024."

9. In response, the complainant has filed her affidavit, which reads as follows:

"4. That is very much important to mention here that the petitioner has also prepared forged ticket and visa of Sandeep Kaur. Rather by doing this he has also committed offence under forgery and played fraud with the complaint and his daughter in law Sandeep Kaur.

> *5. That it is important mention here that the petitioner neither spent 11 lacs on insurance and fee deposited in the university nor the daughter in law of complainant changed her mind and took admission in some other University and also got some refund from the University.*
>
> *6. That the documents which are annexed in the main petition ie Annexure P-5 is forged and self-created documents by the petitioner."*

10. There is a money trail connecting the petitioner's accounts with the complaints, and the explanation offered by the petitioner is not at all convincing. On the contrary, the complainant's version is not only corroborated by the petitioner's bank transactions and forgery of documents, but even the investigation found the complainant's version credible.

11. A perusal of the bail petition and the attached documents primafacie points towards the petitioner's involvement but does not make out a case for bail. Any further discussions will likely prejudice the petitioner; this court refrains from doing so.

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. **Petition dismissed**. Interim orders, if any, are recalled with immediate effect. All pending applications, if any, are disposed of.

(ANOOP CHITKARA)
JUDGE

19.10.2024
Sonia Puri

Whether speaking/reasoned: Yes
Whether reportable: No.