



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

CRM-M No.41719 of 2024
Date of decision: 5th December, 2024

Davinder Das
... Petitioner

Versus

State of Punjab
... Respondent

CORAM: HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

Present: Ms. Prachi Gupta, Advocate for the petitioner.
Mr. Navdeep Singh, Dy. Advocate General, Punjab
for the respondent/State.
Mr. Dixit Garg, Advocate for the complainant.

MANJARI NEHRU KAUL, J. (ORAL)

1. The petitioner is seeking the concession of bail under Section 483 of BNSS in case FIR No.231 dated 13.09.2022 under Section 420 of the IPC and Section 24 of the Emigration Act, 1983 registered at Police Station Jamalpur, District Ludhiana.
2. Learned counsel for the complainant submits that on the last date of hearing, a Coordinate Bench of this Court had adjourned the case with the directions that the complainant be completely cross-examined, however, the cross-examination of the complainant is still pending.
3. Learned counsel for the petitioner has asserted that it is the complainant who, for reasons but obvious, has not been appearing before the trial Court concerned ever since May 2024, as a result of which his cross-examination has not yet been conducted.

4. Learned counsel for the complainant has not been able to dispute the submissions made by the counsel opposite that the case is being repeatedly adjourned on account of the continuous non-appearance of the prosecution witnesses including complainant.

5. Learned counsel for the petitioner has argued that in a Magisterial trial, the petitioner has been in custody for more than eight months, having been arrested on 05.04.2024. It has been further submitted that false and fabricated case has been planted upon the petitioner for allegedly duping the complainant of an amount of ₹20,40,000/- on the pretext of sending some people abroad. Learned counsel has further submitted that in the facts and circumstances as enumerated hereinabove, coupled with the fact that as many as 13 prosecution witnesses have been cited and the complainant as well as other prosecution witnesses have not been appearing, the petitioner deserves to be enlarged on bail.

6. Per contra, learned State counsel while opposing the prayer and submissions made by the counsel opposite, on instructions from Inspector Kulbir Singh, has not disputed the custody period of the petitioner nor has the stage of trial been disputed by him. However, learned State counsel has reiterated the allegations levelled in the FIR in question, which stands reproduced hereunder:

*“To the Commissioner of Police Ludhiana Sub:
Complaint against agent Devinder Dass (Mobile No.62806-58245) son of not known resident of ward no, 8, Payal (Baba Balak Nath Mandir) District Ludhiana to cheat the complainant for settle down the complainant's at Australia on the basis of sponsorship Visa AND to settle one complainant at Canada on the basis of driving and*

Taking three cheques by filing up the amount and threatening the complainants for facing the dire consequences if they complained to the police authorities. Respected Sir, it is requested that we 1. Dilbagh Singh S/o Piara Singh 2. Pawandeep Singh S/o Sukhdev Singh R/o Dhanansu Tehsil and District Ludhiana submits as under:

1. That the above said accused is residing at the above said address and running a temple in his house in the name of Baba Balak Nath and doing the work to send people abroad. SO the above said accused came in our contact and he started to come to our houses. The above said accused told us that he used to send people abroad and he already send many people to abroad. When the above said accused came to our house, every time he told us that he want to go abroad then I will send you abroad and I will settle you down at abroad. The above said accused taken into his confidence and the complainants also have a faith on him that the above said accused is a genuine person. The complainants have a faith upon the above said accused because the above said accused runs temple in his house and resolve the difficulties of the people. That the complainant showed their interest to the above said accused for sending them abroad. Then the above said accused told them that nothing to worry, I will settle down both of you abroad. The complainant no. 1 told to him that my son and my cousin sister is residing at Cyprus and settle down them at Australia from calling back them from Cyprus and the accused assured the complainant no. 2 to settle him at Canada on the basis of driving and the accused received Rs. 1 Lakh from complainant no. 1 and Rs. 12,00,000/- from complainant no. 2 in advance from which Rs. 8,00,000/- were transferred through bank and after few days, the above said accused took Rs. 4 Lakhs

after coming to the house and remaining Rs. 3 Lakhs each were also taken from the house and also assured us by the accused that he will send you abroad as soon as possible and the complainant no. 1 gave Rs. 13,20,000/- for that purpose to the above named said accused in cash and photocopies of passport and ID Proof of the son also handed over to the accused and the accused took the responsibility to settle them at Australia from calling them back from Cyprus and assured us to get the PR of daughter at Australia and told that in few days, the Visa and tickers were provided to you and you do not worry, it's my responsibility and you don't get worried. The above said amount was handed over to the above said accused in the house of the complainant no. 2 and in the presence of complainant and their family members. That likewise above said accused did not provide any visa or ticket etc. after taking the amount from both the complainants and in lieu of that the complainant no.1 issued three cheques bearing no. 285042 amounting to Rs. 6,00,000/- Cheque No. 387401 amounting to Rs. 6,00,000/- and Cheque No. 387402 amounting to Rs. 5,50,000/- Punjab National Bank Branch Dhanansu District Ludhiana in which column of date is empty and when the complainant no. 1 demanded back the above said cheque from the accused then the accused threatened that what are you thinking these cheques have been taken from you, so that I will use the same when you take any legal action against me in the Court and the amount i.e. Rs. 13,20,000/-, I have earned the same, there is nothing against me. Now as per the phrase "HeengLage Na Phatkari Rang ChokaAawe". The above said accused told that you could not do anything against me because I have enough source of money and the same was earned by cheating like you people and your

money will be spent upon you. I have links with the police and I can manage the same and the above said accused told us that I have purchased the brand new vehicle i.e. One Pick Up Mahindra Bolero and the land was also purchased near the house by cheating the people like you. It is requested before you that a legal action be taken against the above said persons by committing the offence of cheating and taking the cheques for black mailing and passing threat perception and our amount be returned to us and justice be done to us. Thanking You.”

7. I have heard learned counsel for the parties and perused the relevant material on record.
8. The petitioner has been in custody since 05.04.2024 in a Magisterial trial. As not disputed, the complainant, for reasons best known to him, has been absenting himself before the trial Court, as a result of which the trial has not progressed further. In the facts and circumstances as enumerated hereinabove, without commenting much on the merits of the case, this Court deems it fit to extend the concession of bail to the petitioner. The petition as such is allowed and the petitioner is admitted to bail to the satisfaction of the trial Court/Duty Magistrate. However, it is made clear that anything observed hereinabove shall not be construed to be an expression of opinion on the merits of the case.

(MANJARI NEHRU KAUL)
JUDGE

December 5, 2024
rps

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