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IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

(220)

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Date of Decision:- 07.05.2024

Pooja Mahajan

.....Petitioner

Versus

U.T. Chandigarh

.....Respondent

CORAM: HON'BLE MR. JUSTICE ALOK JAIN

Present: Mr. Rahul Bhargava, Advocate
for the petitioner.

Ms. Simsi Dhir, Addl. P.P. U.T. Chandigarh
assisted by ASI Avtar Singh.

ALOK JAIN, J. (Oral)

1. The present petition has been filed *inter alia* praying for grant of regular bail to the petitioner in case FIR No. 163 dated 15.09.2021, under Section 420 of the Indian Penal Code and Section 24 of the Immigration Act, registered at Police Station Sector 36 U.T. Chandigarh (Annexure P-1).

2. As per the contents of the FIR, it has been alleged as under:-

“To the Senior Superintendent of Police, Chandigarh Police, Chandigarh UT. Subject Complaint for committing fraud of Rs. 6,00,000/- for getting Canadian study visa of my son Malkit Singh against I-Abroad Education & Immigration Services Private Limited, Sector- 42-C, Chandigarh, and for taking strict legal action against the accused persons and for returning Rs. 6,00,000/-. That I, Gurcharan Singh S/o Gurnam Singh R/o Village- Dayalpura, Tehsil Derabassi, Distt.- SAS Nagar, Mohall, Pb. That M/s I- Abroad Education &

Immigration Services Pvt. Ltd., Sector 42-C, Chandigarh had broadcasted on T.V. regarding sending boys interested for studying in abroad. So therefore I, met with the owner of the said company on 29.09.2020 whereby the owner assured that his company has already sent many boys to Canada and they will also get Canadian Visa for my son namely Malkit Singh, and therefore the owner of the said company demanded Rs. 6,00,000/- from me on different time and intervals, out of which Rs. 4.5 Lakhs were taken by them on dated 09.10.2020. As, I have submitted the said amount in their ICICI bank Account and apart from this, they demanded Rs. 50,000/- from me which I have submitted the said amount in their bank account on dated 13.10.2020, thereafter I deposited Rs. 25,270/- in their bank account on dated 12.10.2020, they also took Rs. 23,000/-, Rs. 6670/- alongwith Rs. 14,035/-. In this manner the aforesaid company has recovered Rs. 6 lakhs from me. That the said company has not got the Visa of my son even after depositing the said amount and I have visited their office multiple times and initially they have entered into agreement that in case they failed to get Visa for Canada then they will return my money, however, neither the owner of the company namely Pooja Mahajan has got Canadian Visa for my son nor have returned my money, there was one another partner of her in the said company namely Raj who was working in the company, that now both the said persons are not returning my money nor they have applied for my son's visa, however they are extending threats that they will not return my money and the said accused person Pooja Mahajan had extended threats by coming to my house, that they will not return my money in any manner even after taking action against her in any manner, that alongwith her there was 2 other persons out of which one person was Raj. Therefore, it is submitted to your good self that the abovesaid Pooja Mahajan, in connivance with employees of I-Abroad Education & Immigration Services

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Company Ltd., Sector 42-C, Chandigarh, has committed fraud with us and had not applied for Visa of my son Malkit Singh and has received Rs. 6, 00,000/- from us in an illegal manner. Therefore, it is requested appropriate strict action be taken against Pooja Mahajan of I-Abroad Education & Immigration Services Company Ltd., Sector 42-C, Chandigarh and Rs. 6,00,000/- be returned along with interest as they have harassed her for years and has spoiled the future of my son. I shall be highly thankful to you. Pooja Mahajan Mobile No. 9876820042 Sd/- Yours Faithfully, Gurcharan Singh s/o Gurnam Singh r/o Village- Dayalpura, Tehsil-Derabassi, Distt.-SAS Nagar, Mohali Mobile 8288990021”.

3. Learned counsel for U.T. Chandigarh has filed the custody certificate of the petitioner in Court today, which is taken on record and according to which the petitioner is in custody for the last 02 years, 02 months and 13 days (as on 07.05.2024) and submits that, in fact, the petitioner was employed as a counselor and more so, 27 witnesses out of 46 witnesses have been examined.

4. Learned counsel for U.T. Chandigarh has vehemently opposed the grant of concession to the petitioner on the ground that the petitioner is a habitual offender and there are as much as 22 FIRs pending against the present petitioner, however, could not deny the fact that the petitioner is behind bars for almost two years.

5. In light of the above and considering the fact that the investigation already stands concluded and most of the material witnesses have been examined and the case being a magisterial trial, therefore, no useful purpose would be served by keeping the petitioner in custody, hence, the petitioner is entitled to the grant of the concession of regular bail.

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6. Without commenting upon the merits of the case, the present petition is allowed and the petitioner is ordered to be released on bail on furnishing bail bonds and surety bonds to the satisfaction of the trial Court/Duty Magistrate/Illaqa Magistrate, concerned.

7. At this stage, learned counsel for the U.T. Chandigarh has raised her apprehension that the petitioner is at flight risk and therefore, strict conditions of bail be imposed that at least the petitioner be directed to surrender her passport and a local surety (resident of tricity) be given.

8. In light of the above, the petitioner is directed to surrender her passport and as regards the surety, the said issue shall be considered by the trial Court/Duty Magistrate/Illaqa Magistrate while granting the concession of bail to the petitioner. She shall, however, be released on the following conditions:

- i. The petitioner shall declare her ordinary place of residence and the mobile number used by her.
- ii. The petitioner will not switch off her mobile and in case of any technical glitch, she has to give an alternate number, which will be available in her absence.
- iii. The petitioner will mark her presence before the SHO concerned, after every 15 days and in case the SHO refuses to mark her presence, she is permitted to make an application before the Illaqa Magistrate, concerned.

The petitioner shall abide by the terms and conditions as imposed in addition to Section 439 of Cr.P.C.

9. It is made clear that, in case, the petitioner is found involved in any such activity once again, the State is at liberty to promptly move an

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appropriate application for cancellation of bail detailing out the circumstances and violation of conditions of bail.

10. However, nothing stated above shall be construed as a final expression of opinion on the merits of the case.

11. It is further made clear that this order shall not be construed as parity *qua* any other co-accused.

(ALOK JAIN)
JUDGE

May 07, 2024
parul

Whether speaking/reasoned:-	Yes/No
Whether Reportable:-	Yes/No