

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

228

CRM-M-61954-2024

DATE OF DECISION: 16.12.2024

PARMINDER SINGH @ PARMINDER SINGH BUTTAR**...PETITIONER****Versus****STATE OF PUNJAB****... RESPONDENT****CORAM: HON'BLE MR. JUSTICE SANDEEP MOUDGIL**

Present: Mr. Saurav Kanojia, Advocate for the petitioner(s).

Mr. J.S. Rattu, DAG, Punjab.

SANDEEP MOUDGIL, J (ORAL)**1. Relief Sought**

This petition has been filed under Section 483 B.N.S.S 2023 for grant of regular bail to the petitioner in FIR No. 69 dated 12.07.2024 under Sections 406, 420, 120-B of IPC, 1860 registered at Police Station Dehlon, District Ludhiana.

2. Prosecution story set up in the present case as per the version in the FIR reads as under :-

“Today, one complaint PGD No. 338560 System ID 337540 dated 23-4-2024 by Sharanjit Singh son of Mukhtiar Singh, resident of village Guram, district Ludhiana, regarding the rejection of the marriage by cheating and spending money by fraud, after investigation by the officers and later by the order of the Hon'ble commissioner of Police, Ludhiana, has been received in the police Station through post for registration of FIR. .. The contents of which are as under:- To The Hon'ble Commissioner Subject: -Application against Girl's Phuphar Parminder Singh (Mob: 98153-74810) son of Naginder Singh

resident of Tehsil Raikot for committing fraud and cheating of Rs. 10,00, 000/- fraudulently on account of sending abroad, by doing roka by showing fake girl and his companion Kulwinder kaur Mob. 98557-57346 wife Surinder Singh, resident of Kila Raipur, Ludhiana and sister of Kulwinder Kaur Kammo (mob: 84374-32753) and fake Bhua of girl namely Narinder Purewal (mob : 89681-89194) and alongwith her mother Sheetal kaur and Sheetal Kaur's father Mohan Singh, who have come to Ludhiana from Canada at this time, conspired with each other and to commit fraud and spend our money and backout of the marriage, appropriate legal action be taken against them. Sir, it is requested that I Sharanjit Singh son of Shri Mukhtiar Singh, resident of village Guram, Ludhiana do hereby submit that: That the name my son is Sandeep singh, I have to marry my son and first of all: Kulwinder Kaur is my acquaintance, so I went to her house and where her was also present on the spot. Both of them admitted to me that Parminder Singh's niece is a Canadian citizen, whose marriage is yet to be solemnized and she told that I will do : your talking and Kulwinder Kaur said that she will take Rs. 10, 00, 000/- in lieu of fixing the marriage and regarding the above said subject, Parminder Singh was told to be the phuphar of the girl and disclose the girl's name as Amandeep Rai daughter of Major Singh Rai and also showed the girl from the spot.. The agreement has been written in which entire payment of the marriage and sending abroad is settled for Rs. 25,00, 000/- Rs. twenty five lakh rupees) and they took Rs. 10, 00, 000/- from me Details are as Rs. 3, 00, 000/- - Cash at Kulwinder Kaur's house at Kila Raipur, Rs. 5, 00, 000/- on dated 12-04-2024 through bank transfer • only in the name of Parminder Singh and Rs. 2, 00,000/- has been jointly received by them. All this work was done in the presence of Sheetal Kaur and Mohan Singh in connivance with each. The girl's photo was faked on the girl's passport. This agreement. was written on dated 12-04-2024 and marriage has been fixed in October. On 18-04-2024 engagement ceremony was performed between girl

and boy, the photographs of the marriage on the spot are available. But they back out from the marriage prematurely and started began to talk something else and kept on linger on the matter and meeting was held 3-4 times in the presence of respectable persons but these persons did not agree to anything. When I asked about the writing of the agreement, Parminder Singh etc threatened me and also threatened that if you demanded the amount back, they will kill you and your family. They have conspired together to cheat us of Rs. 10,00,000/- and usurp the amount. We have come to know that the girl they showed is fake. I and my family are at risk of life and property from them. I request you that a case should be registered against all the persons of the said subject and appropriate legal action may kindly be taken. Please protect us and my money should be returned . back from them. Justice be done to us and teach them a lesson so that they don't cheat anyone else in the future. I shall be very thankful to you. With thanks, Yours sincerely, Saranjit Singh (Saranjit Singh son of Mukhtiar Singh, resident of village Guram, Ludhiana Adhaar No: 5100 4073 9385 Mo: 94175-41772 dated 23/4/2024. The investigation of the said application number was carried out by the Honorable Assistant Commissioner of Police, south Ludhiana. In the investigation report, it is written that, during the investigation conducted so far, the statements obtained, the documents and the facts revealed, the following facts have been revealed: -1. The applicant Sharanjit Singh had decided to marry his son Sandeep Singh with Amandeep Rai daughter of Major Singh, a resident of village Saraya Khas, Jalandhar at present Canada. An agreement dated 12.04.2024 has also been entered into by both the parties which is attached herewith. 2. According to this agreement, the total expenses of Rs. 25,00,000/- (Rupees 25 Lakhs) and it was to be given by the applicant party to the opposite party in respect of which an amount of Rs. 8, 00, 000/- was to be transferred in the account of Parminder Singh in advance through bank and the remaining amount (Rs. 17 lakhs)

was to be paid at the time of marriage in the month of October.

3. In the agreement dated 12.04.2024 between both the parties, it was also settled that the girl Amandeep Rai will go back after performing the marriage and same is to be registered with applicant Sharanjit Singh's son Sandeep Singh and she will go back and after the marriage will put the file of the boy Sandeep Singh in Canada and she will be bound to call within 6 months. On the agreement dated 12.04.2024 there is a signature of Parminder Singh on behalf of girl party and Kulwinder Kaur has signed as a witness to it.

4. The applicant party has submitted his bank account and from perusal of the statement, it is found that on 12.04.2024, Sandeep Singh transferred Rs. 5, 00, 023.60/- from his bank account to the account of Parminder Singh Buttar and the remaining advance amount of Rs. 3, 00,000/- was given to the opposite party in cash in the house of Kulwinder Kaur at village Kila Raipur Ludhiana. In respect of which in the agreement dated 12.04.2024 Praminder Singh (the opposite party) has admitted that he has taken Rs. 8, 00, 000/- in advance for the purpose of marriage.

5. From the photographs taken by the applicant on 18.04.2024 during the shagan of Sandeep Singh and Amandeep Rai, it is clear that Parminder Singh and Narinder Kaur Purewal of the opposite party were present during the shagan program who identified themselves as Bhua and Phuphar of the girl Amandeep Rai. The photographs of Shagan ceremony are attached herewith for the perusal.

6. During the enquiry of the application, the opposite party Karamjit Kaur has written in her statement that Ravi Bhatia resident of Sahnewal Ludhiana misled the opposite from the complaint and party to resile from the complainant and arrange with the policemen in exchange of Rs. 80,000/- cash from the opposition party Karamjit Kaur. According to Karamjit Kaur's statement, it has come to light that Ravi Bhatia, resident of Sahnewal, Ludhiana, misled the opposition party and cheated them of money.: From the investigation so far, it has been found that the applicant Sharanjit Singh agreed to marry his son

Sandeep Singh to Amandeep Rai. Regarding which an agreement dated 12.04.2024 was also entered into by both the parties and as per the agreement, a total of Rs. 25,00,000/- (Rupees 25 Lakhs) for the expenses incurred during the marriage was decided to be paid by the applicant to the opposite party in respect of which Rs. 5, 00, 023. 60/- was deposited by Sandeep Singh in his bank account in the account of Parminder, Singh Buttar and the remaining advance amount of Rs. 3, 00,000/- was given by the applicant in cash to the opposite party at the house of Kulwinder Kaur at village lila Raipur Ludhiana and the remaining amount (Rs. 17 lakhs) at the time of marriage in the month of October. According to the agreement dated 12.04.2024, the girl Amandeep Rai was bound to send the boy Sandeep Singh to Canada within 6 months after the marriage. On 18. 04. 2024, Parminder Singh and Narinder Kaur Purewal of opposite party were present in the Shagun ceremony, who presented themselves as the . Bhua and Phuphuar of the • girl Amandeep Rai. Similarly, the opposite party Parminder Singh son of Naginder Singh resident of village Nathowal, police station Hathur, district Ludhiana, Narinder Kaur Purewal daughter of Mohan Singh resident of house no. 15, Ganes Nagar, Rama Mandi, Jalandhar, Kulwinder Kaur wife of Surinder Singh resident of village Kila Raipur station Dehlon Ludhiana and police Karamjit Kaur wife of Jagtar Singh resident of village Sukhana police station Sadar Raikot district Ludhiana mutually in connivance with each other, in order to send Sandeep Singh son of Sharanjit Singh in abroad. It is proved that the opposite party committed a fraud of about Rs. 8, 00, 000/- upon the applicant on the pretext of fake marriage on account of sending the applicant's son abroad. If any evidence against Ravi Bhatia resident of Sahnewal Ludhiana comes to light during the investigation of the case. Actions will be taken as per the circumstances. Recommendation: - If approved, file a case against the opposite party Parminder Singh, Narinder Kaur Purewal, Karamjit Kaur and Kulwinder Kaur under the Offence

420, 406,120-B IPC, Police station Dehlon Ludhi: An order of investigation should be given to SHO P.S. Dehlon, Ludhiana. Assistant Commissioner Police Hon'ble South Ludhiana ji sent his report to the service of senior officers Bala ji through proper system. Hon'ble Additional Deputy Commissioner Police zone - 2, Ludhiana agreed with his report. Expressed and sent senior report to the service of his officers through the appropriate system. On which the Honorable Deputy Commissioner Police Rural, Commissionerate Ludhiana ji agreed and sent his report to the service of the Honorable Commissioner Police Ludhiana through the appropriate system”

3. **Contentions**

On behalf of the petitioner

Learned counsel for the petitioner submits that the petitioner has been falsely implicated in the present case. He further submits that the marriage of the niece of the petitioner has been fixed with the son of the complainant, but due to unavoidable circumstances, the same could not be performed and on account of which, misunderstanding was created, which resulted into the registration of instant FIR.

Learned counsel for the petitioner has drawn attention of this court to an order dated 07.11.2023 (Annexure P-3), vide which co-accused namely Karamjit Kaur, has already been granted the concession of anticipatory bail by this Court passed in CRM-M-55403-2024 and claims parity.

On behalf of the State

Learned State counsel has filed the custody certificate of the petitioner, which is taken on record. He would vehemently contend that actually the amount was credited into the account of the present petitioner and he is not at parity with the co-accused namely Karamjit Kaur, who has been granted the concession of anticipatory bail.

4. Analysis

Be that as it may, from the above discussion, it can be culled out that the petitioner has already suffered sufficient incarceration i.e. 2 months and 17 days, and as per the principle of the criminal jurisprudence, no one should be considered guilty, till the guilt is proved beyond reasonable doubt, whereas in the instant case, challan stands presented on 21.11.2024, charges are yet to be framed and total 10 prosecution witnesses are to be examined, which is sufficient for this Court to infer that the conclusion of trial is likely to take considerable time and detaining the petitioner behind the bars for an indefinite period would solve no purpose.

The contention of learned State counsel does not carry much weight, in the light of another fact, which cannot be ignored that whatever transaction has transpired in the instant petition is a result of subsequent disagreement to a matrimonial contract, which is otherwise in the nature of the peculiar facts and circumstances prevailing in the instant FIR is not legally enforceable.

Reliance can be placed upon the judgment of the Apex Court rendered in “***Dataram versus State of Uttar Pradesh and another***”, **2018(2) R.C.R. (Criminal) 131**, wherein it has been held that the grant of bail is a general rule and putting persons in jail or in prison or in correction home is an exception. Relevant paras of the said judgment is reproduced as under:-

“2. A fundamental postulate of criminal jurisprudence is the presumption of innocence, meaning thereby that a person is believed to be innocent until found guilty. However, there are instances in our criminal law where a reverse onus has been placed on an accused with regard to some specific offences but that is another matter and does not detract from the fundamental

postulate in respect of other offences. Yet another important facet of our criminal jurisprudence is that the grant of bail is the general rule and putting a person in jail or in a prison or in a correction home (whichever expression one may wish to use) is an exception. Unfortunately, some of these basic principles appear to have been lost sight of with the result that more and more persons are being incarcerated and for longer periods. This does not do any good to our criminal jurisprudence or to our society.

3. There is no doubt that the grant or denial of bail is entirely the discretion of the judge considering a case but even so, the exercise of judicial discretion has been circumscribed by a large number of decisions rendered by this Court and by every High Court in the country. Yet, occasionally there is a necessity to introspect whether denying bail to an accused person is the right thing to do on the facts and in the circumstances of a case.

4. While so introspecting, among the factors that need to be considered is whether the accused was arrested during investigations when that person perhaps has the best opportunity to tamper with the evidence or influence witnesses. If the investigating officer does not find it necessary to arrest an accused person during investigations, a strong case should be made out for placing that person in judicial custody after a charge sheet is filed. Similarly, it is important to ascertain whether the accused was participating in the investigations to the satisfaction of the investigating officer and was not absconding or not appearing when required by the investigating officer. Surely, if an accused is not hiding from the investigating officer or is hiding due to some genuine and expressed fear of being victimised, it would be a factor that a judge would need to consider in an appropriate case. It is also necessary for the judge to consider whether the accused is a first-time offender or has been accused of other offences and if so, the nature of such offences and his or her general conduct. The poverty or the deemed indigent status of an accused is also an extremely important factor and even Parliament has taken notice of it by incorporating an Explanation to section 436 of the Code of Criminal Procedure, 1973. An equally soft approach to

incarceration has been taken by Parliament by inserting section 436A in the Code of Criminal Procedure, 1973.

5. To put it shortly, a humane attitude is required to be adopted by a judge, while dealing with an application for remanding a suspect or an accused person to police custody or judicial custody. There are several reasons for this including maintaining the dignity of an accused person, howsoever poor that person might be, the requirements of Article 21 of the Constitution and the fact that there is enormous overcrowding in prisons, leading to social and other problems as noticed by this Court in In Re-Inhuman Conditions in 1382 Prisons, 2017(4) RCR (Criminal) 416: 2017(5) Recent Apex Judgments (R.A.J.) 408 : (2017) 10 SCC 658

6. The historical background of the provision for bail has been elaborately and lucidly explained in a recent decision delivered in Nimesh Tara chand Shah v. Union of India, 2017 (13) SCALE 609 going back to the days of the Magna Carta. In that decision, reference was made to Gurbaksh Singh Sibbia v. State of Punjab, (1980) 2 SCC 565 in which it is observed that it was held way back in Nagendra v. King-Emperor, AIR 1924 Calcutta 476 that bail is not to be withheld as a punishment. Reference was also made to Emperor v. Hutchinson, AIR 1931 Allahabad 356 wherein it was observed that grant of bail is the rule and refusal is the exception. The provision for bail is therefore age-old and the liberal interpretation to the provision for bail is almost a century old, going back to colonial days.

7. However, we should not be understood to mean that bail should be granted in every case. The grant or refusal of bail is entirely within the discretion of the judge hearing the matter and though that discretion is unfettered, it must be exercised judiciously and in a humane manner and compassionately. Also, conditions for the grant of bail ought not to be so strict as to be incapable of compliance, thereby making the grant of bail illusory.”

Therefore, to elucidate further, this Court is conscious of the fundamental principle of law that right to speedy trial is a part of reasonable, fair and just procedure enshrined under Article 21 of the

Constitution of India. This constitutional right cannot be denied to the accused as is the mandate of the Apex court in “*Hussainara Khatoon and ors (IV) v. Home Secretary, State of Bihar, Patna*”, (1980) 1 SCC 98.

Besides this, reference can be drawn upon that pre-conviction period of the under-trials should be as short as possible keeping in view the nature of accusation and the severity of punishment in case of conviction and the nature of supporting evidence, reasonable apprehension of tampering with the witness or apprehension of threat to the complainant.

As far as the pendency of other cases and involvement of the petitioner in other cases is concerned, reliance can be placed upon the order of this Court rendered in CRM-M-25914-2022 titled as “*Baljinder Singh alias Rock vs. State of Punjab*” decided on 02.03.2023, wherein, while referring Article 21 of the Constitution of India, this Court has held that no doubt, at the time of granting bail, the criminal antecedents of the petitioner are to be looked into but at the same time it is equally true that the appreciation of evidence during the course of trial has to be looked into with reference to the evidence in that case alone and not with respect to the evidence in the other pending cases. In such eventuality, strict adherence to the rule of denial of bail on account of pendency of other cases/convictions in all probability would lend the petitioner in a situation of denial the concession of bail.

5. Decision:

In view of the aforesaid discussions made hereinabove, the petitioner is directed to be released on regular bail on his furnishing bail and surety bonds to the satisfaction of the trial Court/Duty Magistrate, concerned.

However, it is made clear that anything stated hereinabove shall not be construed as an expression of opinion on the merits of the case.

The petition in the aforesaid terms stands allowed.

(SANDEEP MOUDGIL)
JUDGE

16.12.2024
Meenu

<i>Whether speaking/reasoned</i>	<i>Yes/No</i>
<i>Whether reportable</i>	<i>Yes/No</i>