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

Sr. No.217-2

**CRM-M-62247-2024(O&M)
Date of decision : 20.12.2024**

Arshad Khan

..... Petitioner

VERSUS

U.T Chandigarh

..... Respondent

CORAM: HON'BLE MS. JUSTICE KIRTI SINGH

Present: Mr. Nikhil Ghai, Advocate, for the petitioner.

Mr. Abhinav Gupta, Addl. PP, UT Chandigarh.

Mr. Nipun Bhardwaj, Advocate, for the complainant.

KIRTI SINGH, J. (Oral)

The jurisdiction of this Court under Section 483 of BNSS, 2023 has been invoked for grant of regular bail to the petitioner in case FIR No.78 dated 16.07.2024, under Sections 409, 420, 467, 468, 471 & 120-B IPC and Section 24 of Emigration Act, registered at Police Station Sector 3, Chandigarh.

2. The translated version of the FIR is reproduced below:-

“Ashish Sharma, Mojowal, Near Shiv Mandir Naya Nangal, 140126 21th March, 2024, Senior Superintendent of Police, Sector 9. Chandigarh. Subject: Complaint Regarding Fraudulent Immigration Services by Golden Overseas, Respected Sir, I hope this letter finds you well. I am writing to bring to your attention a serious matter concerning fraudulent activities conducted by a company known as Golden Overseas, located in Sector 9-D, Chandigarh. My name is Ashish Sharma, and I am a resident of Nangal (Punjab). I am writing to report an incident involving Golden Overseas, which has affected not only me but also seven other individuals whom I had referred to the company for immigration services. Approximately six months ago, a total of eight persons, including myself, engaged the services of Golden Overseas to assist us with our respective immigration processes. Each of us paid a significant sum totaling 8 lakhs in hopes of a positive outcome. However,

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despite the considerable amount of time that has passed, none of us have received any updates or progress regarding our immigration status. Upon conducting a thorough investigation, it has come our attention that Golden Overseas does not possess a valid license to provide immigration services, and the certifications they claim to hold are fraudulent. This revelation has caused immense distress and concern among all of us who trusted the company with our immigration aspirations. Moreover the owner of the Golden Overseas, Mr. Jai Karan Joshi is never available in his office for assisting us. In light of these findings, I humbly request your urgent intervention in this matter. I implore you to take swift and appropriate legal action against Golden Overseas for their involvement in fraudulent activities, which have not only caused financial loss but also emotional distress to multiple individuals. Furthermore, I seek your guidance on how to proceed with legal recourse to ensure that justice is served and that measures are taken to prevent such deceitful practices from victimizing others in the future. Enclosed with this letter are copies of relevant documents, including receipts of payment and any correspondence with Golden Overseas, for your perusal and further investigation. Thank you for your attention to this pressing matter. I trust in your commitment to upholding justice and look forward to your prompt action in addressing this issue. Yours sincerely, Ashish Sharma 6230611051, at. 23.10 PM Complaints No.ICMS/2024/007850 Dated ICMS/2024/011089 21.03.2024 25.04.2024 SMS/2024/ Dt. Dt. 20.05.24 007850 Dt. 21.03.2024 ICMS2024/011089 Dt.25.04.2024 ICMS/2024/013835 ICMS/2024/018314 Dt. 30.06.2024 Made By Ashish Sharma Mojowal, Near Shiv Mandir Naya Nangal, Punjab Mob. No. 6230611051 The matter was reported at the police station, Mosul, where senior officials ordered the registration of the case. As a result, Case No. 78, dated 16.07.2024, under Sections 409, 420, 467, 468, 471, 120-B of IPC and Section 24 of the Immigration Act, has been registered against Jai Karan Joshi, Golden Overseas, SCO No. 54-55, 2nd Floor, Sector 9, Chandigarh, and others. The original complaint, along with a copy of the FIR, has been submitted for further investigation under the supervision of the concerned SI. Copies of the FIR will be sent to the senior officials for their attention. Note: The Parties have a right to legal aid, and they or any of them, if required, can avail free legal aid from District legal Services Authority, 2nd floor Service block, District Court Complex, Sector 43 UT Chandigarh Help Line no. 84275669901.”

3. Learned counsel for the petitioner *inter alia* submits that the

petitioner has been falsely implicated in this case. The petitioner has

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undergone an actual custody of 05 months and 01 day and there is no other criminal case registered against him. He has placed reliance upon compromise (Annexure P2) which has been arrived at between the parties.

4. *Per contra*, learned State counsel has filed reply in Court today and the same is taken on record. He vehemently opposed the submissions made by the learned counsel for the petitioner. He states that the petitioner was actively involved in the commission of the offence. He has filed custody certificate in Court and as per custody certificate, the petitioner has undergone an actual custody of 05 months and 01 day, however, he submits that there are various other complaints against him. He on instructions submits that charges were framed on 26.11.2024 and out of total 20 prosecution witnesses, none has been examined till date. He further contends that in view of the serious allegations against the petitioner, he is not entitled to the concession of regular bail.

5. Learned counsel for the complainant also admits the factum of compromise between both the parties.

6. Heard the rival submissions made by learned counsel for the parties.

7. Admittedly, the petitioner has undergone an actual custody of 05 months and 01 day and is not involved in other criminal case. Charges were framed on 26.11.2024 and out of total 20 prosecution witnesses, none has been examined till date. Compromise has also been effected between the parties.

8. The veracity of the allegations leveled against the petitioner

shall be established during the course of the trial. This Court is of the

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considered view that further incarceration of the petitioner will not serve any purpose.

9. Without commenting anything on the merits of the case, lest it may prejudice the trial, the present petition is allowed and the petitioner is ordered to be released on regular bail on his furnishing adequate bail/surety bonds to the satisfaction of the concerned learned trial Court/Duty Magistrate. The petitioner shall also abide by the following conditions:-

- (I) The petitioner will not tamper with the evidence during the trial.
- (II) The petitioner will not pressurize/intimidate the prosecution witness(s).
- (III) The petitioner will appear before the trial Court on the date fixed, unless personal presence is exempted.
- (IV) The petitioner shall not commit an offence similar to the offence of which he is accused of, or for commission of which he is suspected.
- (V) The petitioner shall not directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade him from disclosing such facts to the Court or to any police officer or tamper with the evidence.

10. In case of breach of any of the above conditions, the prosecution shall be at liberty to move an application for cancellation of bail before this Court.

11. However, nothing stated above shall be construed as a final expression of opinion on the merits of the case and the trial Court would

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proceed independently of the observations made in the present case which are only for the purpose of adjudicating the present bail petition.

Pending miscellaneous application(s), if any, also stands disposed of.

(KIRTI SINGH)
JUDGE

20.12.2024
Ramandeep Singh

Whether speaking / reasoned	Yes/No
Whether Reportable	Yes/No