

2025:PHHC:013774



IN THE HIGH COURT PUNJAB AND HARYANA
AT CHANDIGARH

222

CRM-M-196-2024
DECIDED ON: 23.01.2025

SAHIL GHAI

... PETITIONER

VERSUS

STATE OF PUNJAB

... RESPONDENTS

CORAM: HON'BLE MR. JUSTICE SANDEEP MOUDGIL.

Present: Mr. Bharat Puri, Advocate
for the petitioner.

Mr. Jaspal Singh Guru, AAG, Punjab.

SANDEEP MOUDGIL, J

1. Relief Sought

The jurisdiction of this Court under Section 439 Cr.P.C. has been invoked seeking regular bail to the petitioner in case FIR No. 107, dated 17.06.2023, under Sections 406, 420, 467, 468, 471 and 474 of the Indian Penal Code, 1860, registered at Police Station Phase-I, District SAS Nagar (Mohali).

2. Submissions

On behalf of the petitioner:

Learned counsel for the petitioner has submitted that the petitioner has not committed any offence and has been falsely implicated in the present case. He further contends that the FIR in question has been registered on the basis of allegations pertaining to the business of immigration, specifically the operation of a travel agency, which is governed by the provisions of the Punjab

Travel Professionals Regulation Act. It is submitted that the Investigation Officer has filed the present FIR under Sections 467, 468, 471, and 474 of the Indian Penal Code (IPC) without any substantive evidence. This conduct, according to the petitioner, also contravenes the guidelines issued by the Supreme Court of India regarding Section 41-A of the Code of Criminal Procedure (Cr.P.C.).

The petitioner further submits that there has been a clear violation of the principles of fair and impartial investigation, as the complainant and the Investigation Officer are the same person, which raises doubts about the credibility of the prosecution's case. It is also argued that no private individual had approached the investigating agency to lodge a complaint alleging fraud, cheating, or forgery against the petitioner, yet the investigating agency proceeded to file the FIR without verifying the allegations from any concerned party.

Additionally, the petitioner was arrested on 18.06.2023, and during police remand, no incriminating material was recovered. The petitioner is presently in judicial custody. It is further submitted that the challan has already been filed in this case, and as the trial is expected to take a considerable amount of time to conclude, there is no justifiable reason to continue the petitioner's detention as it would not serve any useful purpose.

On behalf of respondent-State

On the other hand, learned State Counsel would argue that the allegations against the petitioner is with regard to duping of 17 persons to the tune of Rs.37,76,000/- on account of sending them to abroad. He further submits that the petitioner is also involved in five more cases of similar nature,

out of which in three cases he is not on bail, meaning thereby, he is a habitual offender.

Heard learned counsel for the respective parties.

4. Analysis and conclusion:

In case of criminal investigation, the normal procedure prescribed for curtailing the right to life & liberty, is that the investigating officer can arrest the accused even without warrant. The Court has extraordinary power to protect an innocent person. However, this power has to be exercised by the Courts with due circumspection.

The allegations against the petitioner in the present case are *prima facie* substantiated, as it appears that he has defrauded 17 innocent individuals by promising to send them abroad. Furthermore, based on the disclosure statement made by the petitioner, he led the authorities to recover various incriminating items, including photocopies of passports, forged agreement letters, counterfeit visa stickers for Canada and Portugal, fake visa grant notices for Australia, forged employment offer letters, fabricated assessment papers, and other documents related to the individuals he deceived. These documents point to the petitioner's dishonest intent and his inducement to commit the fraud.

During the course of the investigation, the ownership of Plot No. D/133/C, Manchanda Tower, Fourth Floor, Phase-7, Industrial Area, Mohali, where the petitioner had set up a fraudulent office under the name "Overseas Immigration," was verified. It was found that the property was registered in the name of Simranjit Kaur, who, in her statement, confirmed that she had leased the property to the petitioner for a monthly rent of Rs.43,000/-.

In light of the aforementioned facts, it is abundantly clear that the petitioner played an active role in the commission of the offences. Additionally, there is a strong likelihood that the petitioner may attempt to interfere with the investigation or threaten/intimidate witnesses, given his history of involvement in similar criminal activities, as evidenced by the custody certificate submitted by the learned State counsel in court today.

In view of the discussions made hereinabove, the present petition is dismissed.

However, it is made clear that the observations in this order are only for the purposes of deciding this bail application and the Trial Court is free to adjudicate upon the matter in accordance with law.

23.01.2025
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(SANDEEP MOUDGIL)
JUDGE

Whether speaking/reasoned

: Yes/No

Whether reportable

: Yes/No