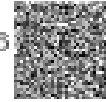


2025:PHHC:010926



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

**CRM-M-3113-2025
DECIDED ON: 24.01.2025**

NAVPREET SHARMA

.....PETITIONER

VERSUS

STATE OF UT CHD.

.....RESPONDENT

CORAM: HON'BLE MR. JUSTICE SANDEEP MOUDGIL

Present: Mr. Mukul Goyal, Advocate
 for the petitioner.

Mr. Vivek Singla, APP, UT Chandigarh.

SANDEEP MOUDGIL, J (ORAL)

CRM-2224-2025

Application is allowed, as prayed for.

Exemption of from filing certified copy of Annexures and
permission to file true typed copy of the same is granted.

CRM-M-3113-2025

1. Relief Sought

The jurisdiction of this Court has been invoked for the 3rd time
under Section 483 of BNSS, 2023 for grant of regular bail to the petitioner in
case FIR No.0092, dated 10.08.2024, under Sections 406, 409, 420, 467, 468,
471 and 120-B IPC, registered at Police Station Cyber Crime, District
Chandigarh.

2. Facts

Prosecution story, set up in the present case as per the version in

the FIR read as under :-

“Statement of Ganesh Mal s/o Lt. Sh. Shankar Lal r/o Vill Khinyala, Tehsil Jalyal PS Jayal, Distt. Nagour (RJ) age 52 years, M.No.6367702594. Stated that I reside at the above address alongwith my family. And do the work of Carpenter in my village itself. In April 2024, I saw the add of one Visa Company Global Consultant SCO No. 292, 1st Floor, Sec 32-D, Chandigarh on my Facebook ID and called on the M.No. 7529864834 given in this add. One girl picked the phone and told that their company do the work of sending to Azerbaijan and told her name as Gazal Kapoor and for getting more information called in office Chd. I along with my son-in-law (Damad) Vikas came to their office Sec 32D on 25.4.24, met Gazal Kapoor. At that time in her office, three girls and two boys were working, they told us that they send group of 25/30 persons for working in Azerbaijan, in which Carpenter, labourer, anyone can be there and the total expenses for sending to Azerbaijan will come to Rs. 1,35,000/- per head. In which they will get done the entire process, Air Ticket etc, in the same and will also provide them work upno reaching at Azerbaijan and their Azerbaijan salary will be Rs. 1 lakh per month. She also said that half money after offer letter and rest of the money will have to be given upon getting visa. I found their offer to be good and as group was going, then I told about the same to the persons of my village and to some known persons of the adjoining villages. For the same, some from my village and some from other village got ready. Regarding the same, I talked with Ghazal Kapoor in the above Visa company. She told us to send our respective Passport through courier. In the beginning, I sent her Passport of 5 persons through post and through Whats app. The above company, for these five Passport, for one EVRASCON Company made Offer letter of Azerbaijan and sent the same on Whats app to me. After that they demanded Rs. 25,000/- from me. As per their asking, on 28.5.2024 I sent the same on their UPI ID-gaggarwal206-

1@oksbi, which was in the name of Shubham, from my daughter Saraswati's A/c No. 83010221250, Rajasthan Marudhar Gramin Bank through Google pay. I showed this Offer letter to my other acquaintance and told them, then they also became ready. Apart from us 5 persons, whose Offer letter had come, other 24 persons became ready to go to Azerbaijan and they also gave their respective Passport to me. I also sent the same to the above Grobal Consultant Company Chd through Whats app and Post. They also sent their offer letter to me on Whats app, after that they started saying that you all have to give Rs, 50000/- now. On 9.6.24, I sent Rs. 50000/- on their above UPI ID from the above A/C of my daughter Online. After that they again telephonically called on 9.6.24 that you Visa has come, you come and deposit your half money. On 10.6.24, I along with my five fellows Pappu Ram, Kamal, Dwarka Parsad and Driver Suresh came to their office Sec 32D Chd and gave Rs. 1109000/- to them in cash as per their asking, They made a receipt of the same and gave it to me and on 10.6.24, itself myself from my daughter Saraswati's above A/c Rs. 50000/- 50000/-9000 109000/-, from Surender's A/c 15000/-, 60000/-, 25000/-, 15000/-, 25000/- 140000/- and from Dwarka Parsad A/c 50000/-and from E-Mitra ID 49000/- 49000/- 40000/- 1999 Total Rs. 139999/-, sent the same on the above UPI ID Shubham given by them online. Which in total comes to 438999/-. After that they told that your ticket is ready for 15.6.24 and give the balance amount. For sending total 27 persons, talk took place for Rs. 35,00000/-(Thirty-five lakh). Then on 11.6.24, myself from the A/c of my daughter Saraswati, as per their asking sent 50000/- 50000/-100000/- in UPD ID of Shubham and from A/c of Ramvilas I the A/c of above Subham 49000/- 2000/- 48000/- 99000/- and from E-Mitra Rs. 50000/- were sent in Kamal's UPI ID gaggarwal206-1@oksbi. On 11.6.24, total Rs. 2,49,000/- were sent to their A/c online. On 12.06.2024, from E-miter 49000/- in the A/c of Subham given by them and 50000/-in A/c of Kamal, Total Rs. 99000/- were sent Online. After that they

by taking the total amount in cash, called to their office and told us regarding giving Ticket and Visa. On 13.6.24, I along with my son-in-law (Damad) Vikas came to their office and gave them Rs. 1300000 (Thirteen lakh) rupees in cash. They had not given any receipt of the same to us and gave us Visa, Passport and Air Ticket of everyone and started saying that we have given all your documents to you, there is no need of its Receipt because Tax is applicable on the same and the remaining 46000/-46000/-50000, 142000/- were deposited from the A/c of Saraswati in the A/c of their above Shubham and Rs. 40000/- were deposited in the above A/c through E-mitra. After that Rs. 40000/- were deposited in their above A/c from the A/c of Hukma Ram. In this manner, we by completing 3500000/-, gave the same to them. Our Ticket of 15.6.24 was from Delhi Airport. When we all 25 persons reached Delhi Airport then we came to know that our Ticket has been made in Duplicate. When we tried to call them, then all their numbers were off. They are having some other mobile n. 7888738567, 7529864834 and 8360819841 and 9115139787 and the Email ID given on their card is consultantalobal23@gmail.com Myself and other 26 persons with whom cheating has been committed. Their names are 1. Girdhari Jangir, Village Keshap 2. Dwarka Parsad Village Khilaya 3. Bhawar Lal Meghwal village Sagu 4. Rupa Ram Meghwal, Village Keshap 5. Sayar Ram Nayak Village Keshap 6. Suresh Meghwal Village Keshap 7. Lodo Ram Meghwal Village sagu 8, Jeevan Ram nai Village Deh 9. Shivram Village Kathoti, 10. Gopal Chati Village Khiyala 11, Babulal Jangir Village Kiyala, 12. Jetharam Jangir Village Ran Sisar 13. Kamal Kishore Rewar Village Rojond, 14. Kishore Nayak Village Keshap, 15. Paban Kumar Village Keshap 16. Ram Singh, Village Sagu 17. Ashok Kumar Village Keshap, 18. Choturam Village Sagu, 19. Jagdish Village Khiyala, 20. Vikas Jagir Village Dehri, 21. Arjan Ram Village Igyar (Adwad), 22. Kamal Village Khiyala 23, Kanihya Lal village Adwad, 24. Rattan Lal, Village Khund, 25.

Ravishankar Village Dugoli, 26. Ashok Vidyasar Village Khiyala, 27. Banwari Lal Sain Village Akhrot. They refused to send me and Gopal Rathore. The persons of above Visa Company Global consultant have committed cheating of about Rs. 3500000/- Thirty five lakh rupees in the name of sending us to Azerbaijan and by preparing wrong documents, have prepared fake documents. Now they have fled away somewhere by closing their office, Legal action be taken against all these persons. Got recorded the statement, hard it, read it, it is correct.”

4. Contentions

On behalf of the petitioner

Learned counsel for the petitioner contends that the petitioner has been falsely implicated in the present case as neither his name was mentioned in the FIR nor any specific role has been attributed to him. It is further submitted that the petitioner is only an employee working in the consultancy firm of one person namely Sanjeev Kumar. He asserts that the petitioner is similarly situated with the other co-accused persons namely Mehak Kapoor, Monika and Balwinder Singh Alias Vicky, who has already been granted the concession of bail vide orders dated 18.11.2024, 12.12.2024, 2012.2024 respectively passed in CRM-M-57027-2024, CRM-M-61538-2024 and CRM-M-63369-2024 respectively.

On behalf of the respondent-State

Before starting the arguments on merits, learned State counsel submits that the 3rd petition is not maintainable as the earlier petition bearing No.CRM-M-58892-2024 was dismissed vide order dated 29.11.2024 (Annexure P-3). He further submits that the petitioner is not at par with the above-said co-accused persons, who have been granted the concession of bail as they were not involved in any other case. However, there are direct

allegations of receiving huge money from the complainant on the pretext of sending him abroad on work visa and also another FIR of similar nature is pending against him. Thus, the petitioner is not entitled to be released on regular bail.

Heard learned counsel for the respective parties.

5. **Analysis & Conclusion**

The petitioner had earlier also approached this Court for grant of bail by way of filing CRM-M-58892-2024, which was dismissed by this Court vide order dated 29.11.2024 (Annexure P-3). Petitioner has failed to reveal any change in circumstance after passing of aforesaid order dated 29.11.2024 by this Court.

It is trite that successive bail applications under Section 439 Cr.P.C. (now 438 BNSS, 2023) in the same FIR, is not maintainable unless some changed circumstances is shown, otherwise, the exercise of jurisdiction to entertain successive bail application amounts to review of previous order of the same Court, which is not permissible as held by the Apex Court in **Hari Singh Mann vs. Harbhajan Singh Bajwa and others (2001) 1 SCC 169.**

It is true that the Court is not to minutely scan the evidence at the stage of adjudication of bail application, still in order to assess the *prima-facie* involvement of bail petitioner, the material on record cannot be ignored.

In the case of **Siddharth v. State of Uttar Pradesh (2021) 5 SCC 411**, the Supreme Court reiterated that a second bail application should not be entertained unless there is a change in circumstances that was not available at the time of the first application. The Court emphasized that the dismissal of the earlier bail application is not a ground for filing a second application, unless there is something new that justifies the application.

In another case i.e. *State of Maharashtra v. Kapil S. Rath* (2015) 4 SCC 319, the Hon'ble Apex Court held that a second bail application is maintainable only when there is a material change in circumstances or new facts that were not available at the time of the first application. The Court observed that if the facts and circumstances remain the same, the second application is bound to be rejected.

Further in the case of *K.K. Verma v. Union of India* (2012) 3 SCC 47, the Court ruled that if the earlier bail application was rejected after detailed consideration, the applicant cannot file a second bail application unless there is a material change in the situation or facts that would warrant reconsideration of the bail application.

In *Uday Mohanlal Acharya v. State of Maharashtra* (2001) 5 SCC 453, the Hon'ble Supreme Court emphasized that a second bail application cannot be filed as a matter of routine or merely because the first one was dismissed. There has to be a substantial change in the circumstances or new grounds to justify the filing of a second application.

The facts of the case disclose the nature, gravity and seriousness of accusations. There is direct allegations against the petitioner that he has duped huge money from the complainant on the pretext of sending him abroad on Work Visa. As noticed earlier, this Court is *prima-facie* of the view that the implication of petitioner in the case is not without justification.

Since the dismissal of the earlier bail application, there has been no change in the circumstances that would justify the filing of a successive application for bail. The material facts and the charges against the petitioner remain identical, and there has been no new development or any fresh evidence that could alter the grounds for the earlier rejection of bail.

Hence, holding that successive bail in such circumstances is not maintainable, the petition is ordered to be dismissed.

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

24.01.2025
sham

(SANDEEP MOUDGIL)
JUDGE

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