

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-4069-2024
Reserved on: 01.04.2025
Pronounced on: 08.04.2025

Harpreet Kumar @ Sonu

...Petitioner

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MR. JUSTICE ANOOP CHITKARA

Present: Ms. Renu Arora, Advocate,
for the petitioner. (through V.C.)

Mr. Sukhdev Singh, AAG, Punjab.

Mr. Sahil Soi, Advocate,
for the complainant.

ANOOP CHITKARA, J.

FIR No.	Dated	Police Station	Sections
124	20.12.2023	Mehatpur, Jalandhar	406, 420 IPC and Section 13 of Punjab Travel Professional Regulation Act, 2014

1. The petitioner apprehending arrest in the FIR captioned above has come up before this Court under Section 438 CrPC, seeking anticipatory bail.
2. Vide order dated 25.01.2024, the petitioner was granted interim bail, which continues to date.
3. The facts and allegations are being taken from the translated copy of FIR annexed with the petition as Annexure P-1, which reads as follows:

“With reference to complaint bearing No: 489 PTOO dated 27.09.2023. To the Senior Superintendent of Police (Rural) Jalandhar. Application for action against Travel Agent Harpreet Kumar (Sonu) son of Rashpal, resident of village Barra Slam, Tehsil Nakodar, Police Station Mehatpur, District Jalandhar (Rural), Mobile: 73472-xxxx; 89686-xxxx. Sir, it is requested that I, Nirmal Singh son of Jeet Singh am resident of Mohalla Mehatpur, District Jalandhar and prays as under: That deal regarding sending my son Jaswinder Singh at abroad at Europe from Dubai was

finalized between me and Travel Agent Harpreet Kumar (Sonu) son of Rashpal, resident of village Barra Slam, Tehsil Nakodar, Police Station Mehatpur, District Jalandhar at Rs.13,86,000/-. He had said me that he will take this amount in cash. On dated 29-05-2023 I gave him Rs.5,00,000/- to Harpreet Kumar in the presence of Karnail Singh son of Gurbachan Singh; M.C. Rakesh Kumar Mehta son of Vidhya Dhar; Aman Sharma son of Idesh Kumar. After that on dated 03-06-2023 I had got transferred payment of Rs.8,36,000 in his account through cheque. I by borrowing money from my relatives and by withdrawing some amounts from bank account had given to him, regarding which I have evidence, but till date he did not send my son at abroad, whereas he had promised to send my son at Europe within the period of one week. After laming the matter for long time, now he has been refused to send my son at abroad and on demanding money back from him, he has been taken time from me for 2-3 occasions and he is making excuses and he did not return my amount till date. From the abovesaid total amount he has been returned only Rs.90,000/- to me and on demanding balance amount he is making excuses. Therefore, legal action may be taken against him and my amount may be returned to me from him and justice may be done with me. I shall be thankful to you.xxx”

4. Counsel for the petitioner on instructions submits that petitioner shall not indulge himself in any other offence in which sentence is more than three years and if he does so, he has no objection if the State files application for cancellation of his bail. The petitioner’s counsel argued that the custodial investigation would serve no purpose whatsoever and the pre-trial incarceration would cause an irreversible injustice to the petitioner and family. As on date when the amount of Rs. 13,86000/- is stated to have been passed on by the complainant to the petitioner, son of the complainant was in custody in Dubai having been involved in a case of theft. The complainant’s son came to be convicted by a Dubai Court on 05.04.2023 and he had preferred an appeal challenges his conviction in Dubai on 25.05.2023 whereas the amount in question is stated to be transferred on 03.06.2023. He further argues that when the future of the complainant’s son itself was uncertain having been convicted in Dubai and an appeal was still pending, the complainant would have chosen to transfer an amount of Rs. 13,86,000/- for sending his son from Dubai to Europe.

5. The State’s counsel opposes bail and refers to the reply.

6. It would be appropriate to refer to the following portions of the reply dated 04.07.2024, which read as follows:

“5. xxx

The enquiry officer reached to the conclusion that the present petitioner

committed cheating of Rs.12,46,000/- with the complainant on the pretext of sending his son to Europe; however, neither son of the complainant was sent to Europe nor did the amount of Rs.12,46,000/- was returned to the complainant.”

REASONING:

7. At the time of transfer of amount son of the complainant was in Dubai, moreover, the complainant failed to clarify the point that where his son wants to go in Europe, no name of country is given, which tilted the arguments in favour of petitioner. There is sufficient prima facie evidence connecting the petitioner with the alleged offense; still, it is neither a case for custodial interrogation nor pre-trial incarceration. Although the evidence might be prima facie sufficient to launch prosecution or to frame charges, but this Court is not considering the evidence at that stage but is analyzing the same for the bail stage.

8. The petitioner was granted interim protection, and during the interregnum, there is no allegation that he had intimidated the witnesses, hampered the investigation, or, despite being called to join the investigation, did not appear before the investigator. Given the above, there would be no justification to discontinue the interim protection, which is made absolute subject to the petitioner complying with the terms of the bail order and the following additional conditions.

CONDITIONS:

9. The petitioner is directed to join the investigation within seven days and as and when called by the Investigator. The petitioner shall be in deemed custody for Section 27 of the Indian Evidence Act. The petitioner shall join the investigation as and when called by the Investigating Officer or any Superior Officer and shall cooperate with the investigation at all further stages as required. In the event of failure to do so, the prosecution will be open to seeking cancellation of the bail. During the investigation, the petitioner shall not be subjected to third-degree, indecent language, inhuman treatment, etc.

10. **This bail is conditional, and the foundational condition is that if the petitioner indulges in any offense in which sentence is more than three years, the State shall file an application for cancellation of this bail before the Sessions Court, which shall have the liberty to cancel this bail.**

11. Any observation made hereinabove is neither an expression of opinion on the case's merits nor shall the trial Court advert to these comments.

12. **Petition allowed** in terms mentioned above. Interim order dated 25.01.2024 is made absolute. All pending applications, if any, stand disposed of.

(ANOOP CHITKARA)
JUDGE

08.04.2025
Jyoti-II

Whether speaking/reasoned:	Yes
Whether reportable:	No.