

2025:PHHC:030616



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

106

**CRM-M-11780-2025
DECIDED ON: 03.03.2025**

GURMEET SINGH

.....PETITIONER

Versus

STATE OF PUNJAB

.....RESPONDENT

CORAM: HON'BLE MR. JUSTICE SANDEEP MOUDGIL

Present: Mr. Rakesh Gupta, Advocate
for the petitioner.

SANDEEP MOUDGIL, J (ORAL)

1. Relief sought

The jurisdiction of this Court has been invoked under Section 482 BNSS seeking pre-arrest bail in case FIR No.22 dated 05.03.2023 under Sections 406,420,120-B IPC registered at P.S Sadar, Patiala.

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

“At present it is recorded that application bearing No. 1261/Peshi, dated 23.02.2022. Application by Balkar Singh son of Swaran Singh, resident of Village Gajewas after enquiry has been received through post from the office of Senior Superintendent of Police, Patiala regarding registration of case against Gurmeet Singh, Manjeet Kaur wife of Gurmeet Singh, residents of Village Makhu, Police Station Makhu, District Ferozepur, Malkeet Singh son of Gurmej Singh, Baljeet Kaur wife of Malkeet Singh, residents of Butala, District Kapurthala, now Italy, the subject matter of which is as mentioned below:-”To, The S.S.P. Patiala. Subject: Application regarding taking appropriate legal action against Gurmeet Singh, resident of Italy Mobile No. +393881031618 and Manjeet Kaur wife of Gurmeet Singh, Mobile 98729-72439, resident of Village Makhu, Ward No. 13, Tehsil Zira, District Ferozepur regarding commission of cheating of total sum of Rs. 2400000/- from the relations of Balkar Singh by giving allurements of abroad Italy. Sir, The application is submitted as under: (1) That I-Balkar Singh son of Sarwan Singh, resident of Village Gajewas do hereby humbly submit before you that my relative Gurdhian son of Dalbara

Singh is the resident of Village Balberha, Tehsil and District Patiala and is doing the work of agriculture, who by taking my relative Gurdhian Singh into their confidence from me, the below mentioned persons have committed cheating. That the interaction of the panchayat member of my village namely Gurpreet Singh was with Parwinder Singh alias Bhinda son of Shawinder Singh, resident of Village Naugawan, Tehsil and District Patiala and due to which my interaction took place with Parwinder Singh, who said to me in the month of December 2019 that my sister Sukhraj Kaur and brother in law Paramjeet Singh are residing in Italy, who are the actual residents of Waraich Colony, Ward No. 8, Samana and usually visit here. If you want to go to Italy, then I shall get sanctioned the visa of Italy through my sister and brother in law. In these days, there is nothing in the agriculture, you will go away to Italy, then there will be my good income. Above mentioned Parwinder Singh alias Bhinda by showing false dreams of getting sanctioned the visa took me into his confidence and I enquired regarding the expenses for getting sanctioned the visa of abroad Italy, then he said that for going to Italy, expenses of your total sum of Rs. 600000/- will be incurred, which complete amount I shall receive after sanctioning of visa, then I said to Parwinder Singh alias Bhinda that I shall inform after having consultation with my family members. Thereafter, Parwinder Singh Bhinda after making phone call again said to me that now the documents of Italy are open, your visa will be received within 2/3 months, then I affirmed the above mentioned Parwinder Singh. (2) That thereafter Parwinder Singh alias Bhinda came to my house at Village Balberha and I had given the photo copies of my passport and other document to Parwinder Singh alias Bhinda, but in the month of February 2020, lockdown had been imposed in Italy, due to which Parwinder Singh Bhinda said that on account of lockdown, your visa could not be sanctioned, when the lockdown will open, then I shall certainly get sanctioned your visa, due to which I had placed reliance on Parwinder Singh. That in the month of October 2020, Parwinder Singh Bhinda by making telephonic call said to me that now the lockdown has been over and the visas of Italy have also opened, you may again give photocopies of your documents to me, I shall get sanctioned your visa. My sister and brother in law are in need of 5/6 boys more for doing work in Italy, you may collect 5/6 other boys alongside you. We shall get done work of you all together, then I talked with my known Husandeep Singh son of Sukhjinder Singh, resident of Village Hamirgarh, District Sangrur, Lajwinder Singh son of Sukhpal Singh, resident of Village and Post Office Shadihri, District Sangrur, Gurpreet Singh son of Nazar Singh, resident of Village and Post Office Ladda, District Sangrur and Dilpreet Singh son of Ram Singh, resident of Village Jaloor, Post Office Rai Dhirana, Tehsil Moonak, District Sangrur regarding going abroad, who had also given the photocopies of their passports and documents to Parwinder Singh in my house at Village Balberha, in the presence of Panchayat Member Gurpreet Singh and Parwinder Singh Bhinda had assured regarding getting sanctioned our visa of Italy and Manjeet Kaur had asked regarding getting deposited Rs. 50000/- being advance in the account No. 12171050039459 of Job Singh, resident of Village Nandpur, Near M.A.Q, Post Office Nagra, District Jalandhar and on 11.11.2020, a sum of Rs, 50000/- were got transferred from the account of our known namely Jarnail Singh, resident of Gajewas of State Bank of India in the above mentioned account of Ajaib Singh, after which Parwinder Singh said to me that the visas of Husandeep Singh, Lajwinder Singh and Dilakhpreet Singh have since been sanctioned. Your visa will be received subsequently,

you may make the arrangement of Rs. 24 lakhs. Parwinder Singh alias Bhinda gave the joint account No. 65056682224 of Malkeet Singh and Baljeet Kaur, resident of Village and Post Office Batala, district Kapurthala of State Bank of Patiala now State Bank of India, Branch Dhilwan to transferred me and asked a sum of Rs. regarding getting 3,60,000/- in this account, then on 16.02.2021 on the asking of Parwinder Singh alias Bhinda, Dilpreet Singh had got deposited a sum of 3,680,000/- in the above mentioned account from the account of HDFC Bank of his brother Jagjeet Singh. Similarly on itself, Husandeep Singh from his 16.02.2021 itself account of Punjab & Sind Bank had got deposited a sum of Rs. 380000/- in the account of above mentioned Malkeet Singh. On 24.02.2021, Husandeep Singh had got deposited a sum of Rs. 450000/- and on 01.03.2021, again a sum of Rs, 230000/- from the account of Punjab National Bank of his paternal uncle Harinder Singh in the above mentioned account of Parwinder Singh. Upon receiving these photos, Parwinder Singh alias Bhinda said that 5000 euros have to be deposited at Italy, then S. Balkar Singh paternal uncle (Phuphar) to me in relations, who was at Italy at that time, to whom I narrated the entire episode, then he contacted with Paramjeet Singh in Italy and Paramjeet Singh said to my paternal uncle (Phuphar) Balkar Singh that I have, getting done the work of your relatives, you may give 5000 euros to me, then my paternal uncle Balkar Singh had given 5000 euros in cash to Paramjeet Singh. (5) That thereafter, the above mentioned Parwinder Singh alias Bhinda sent some documents through a courier from Italy from his brother in law Paramjeet Singh, which courier we took away before Parwinder Singh Bhinda and Parwinder Singh Bhinda opened this courier, then some Photostat documents were found from the same, then Parwinder Singh said to me that I shall get requisitioned the documents again. Thereafter Parwinder Singh Bhinda sent the visa 1 documents on my whatsapp number, which we got checked, then these documents were found fake, then we visited before Parwinder Singh Bhinda, then he said that I shall get requisitioned fresh documents again after one month, but despite elapse of one month, the above mentioned Parwinder Singh Bhinda and Paramjeet Singh etc did not pay any heed to us. The recording of the talk done with them and the recording of the chats sent on the whatsapp are also available with us, which we shall produce in case of necessity. (6) That the above mentioned Parwinder Singh Bhinda, Sukhraj Kaur, Paramjeet Singh have returned a sum of Rs. 9 lakhs of their share to us in the presence of Gurdhian Singh, but when the amount was demanded from Gurmeet Singh resident of Italy, then he flatly refused and further he started extending threats. Here, I-Balkar Singh resident of Gajewas at that time at Italy also clarifies here that Gurmeet Singh also hatched a conspiracy in order to eliminate me, got called before him, but his friends asked me to immediately go back to home and I after saving my life came back to India. (7) Regarding the balance amount of approximately Rs. 16 lakhs of the above mentioned application, I have got deposited the amount of which Rs. 16 lakhs have been got deposited by Gurmeet Singh and Manjeet Kaur wife of Gurmeet Singh, resident of Village Makhu, Ward No. 13, Tehsil Zira, District Ferozepur and Ajaib Singh resident of Village Nandanpur, Near M.A.Q. Post Office Nagra, District Jalandhar in their account as well as account of their relative at Italy, regarding this amount whenever we ask regarding witness from Paramjeet Singh, then Parwinder Singh Chhinda will be bound to get provided witness (because these amounts were got deposited on their asking in the account of Malkeet Singh and Baljeet Kaur, residents of

Village and Post Office Butala, District Kapurthala). The same were given in their presence. From today I and my relative have neither any concern with Parwinder singh Bhinda, Paramjeet Singh and his wife Sukhraj Kaur nor shall take any legal action in this regard, because they have returned sum of Rs. 9 lakhs of their share to us. Therefore, by taking legal action regarding the above mentioned subject, justice may kindly be got delivered to us because we have to go abroad at the earliest. Your act will be highly grateful. Thanking you, yours faithfully Sd/ Balkar Singh, Balkar Singh son of Swaran Singh, resident of Village Gajewas, District Patiala, Mobile No. 6283774844. Senior Superintendent of Police Patiala marked the enquiry of the application to the DSP (Head Quarter) Patiala and DSP (Head Quarter) Patiala vide No. 58/C/ D S P/ (Head Quarter) Patiala dated 10.09.2022 sent his inquiry report to the S. S. P. But Senior Superintendent of Police Patiala vide No. 1261/Peshi, dated 04.10.2022 while raising objections on the inquiry report, has sought the conclusion report, in which Deputy Superintendent of Police, Head Quarter, Patiala again mentioned in his inquiry report sent to the Senior Superintendent of Police, Patiala vide No./58/C/DSP/H, Patiala that "CONCLUSION REPORT:- During the course of my upto date verification investigation, the earlier conducted inquiry report, statements and other concerned documents have been perused with due care and caution, upon perusing which, it has been found that the entire family of applicant Balkar Singh lives in Italy. In the year 2019, the applicant himself and his wife Baljeet Kaur had gone away on family visa to their son Jeetpal Singh, daughter in law Sukhpal Kaur and daughter Ramandeep Kaur at Italy. From where during the course of telephonic talk, the son of his brother in law namely Husandeep Singh son of Sukhwinder Singh, resident of Hamirgarh, son in law of brother in law namely Lajwinder Singh son of Sukhpal Singh, resident of Shadihri, nephew of daughter in law Sukhpal Kaur wife of Jeetpal Singh, resident of Italy namely Dilpreet Singh son of Ram Singh, resident of Jaloor and Harpreet Singh son of Nazar Singh, resident of Ladda said to the applicant Balkar Singh that they entire family have been living in Italy, who after getting prepared their documents of Italy through someone from there, may also get settled them at Italy, on which the applicant Balkar Singh firstly talked at Italy itself, but to no effect. The known of applicant Balkar Singh namely Gurdhian Singh son of Dalbara Singh, resident of Balberha also wanted to go to Italy, with whom the applicant after having telephonic talk from Italy, inquired about the work of going abroad at Italy, who told that sister, sister's husband (Sukhraj Kaur, Paramjeet Singh alias Pamma) of Parwinder Singh alias Bhinda friend of Gurpreet Singh Panch of his village are permanent at Italy, through whom since December 2019. His talk has taken place with Gurmeet Singh, Malkiat Singh, Baljeet Kaur who have been living at Italy at a sum of Rs. 6 lakhs in lieu of calling to Italy after getting sanctioned work permit and visa. The entire amount has to be paid on completion of work, to whom he had sent the copies of the passport and other documents, but on account of imposition of lock down the work has been closed. When the same will start, then they will submit his documents for work permit and visa, to whom the applicant Balkar Singh said regarding having talk in respect of his above mentioned relatives, on which Gurdhian Singh talked with Gurmeet Singh etc at Italy through Parwinder Singh alias Bhinda, who affirmed the same and kept condition that they will receive the entire amount in advance, on which in October 2020, upon opening of lockdown, Gurdhian Singh by calling the relatives of the applicant namely Husandeep Singh etc at his house got conducted their

talk with Gurmeet Singh etc on telephone in the presence of. Parwinder Singh alias Bhinda. Gurpreet Singh Panch, to whom Gurpreet Singh said that as soon as you will pay the amount of Rs. 06-06 lakhs per person and passport as well as concerned documents, the work will be done at such earliest. He said regarding giving the copies of passports etc to Parwinder Singh alias Bhinda and to pay the amount after having talk with his wife Manjeet Kaur, resident of Makhu, who gave their respective passports and other documents to Parwinder Singh Bhinda. They talked with Manjeet Kaur wife of Gurmeet Singh, resident of Makhu telephonically regarding the amount, who said regarding transferring the amount in her account No. 32422730236. Thereafter, the applicant, his relatives and Gurdhian Singh, Parwinder Singh alias Bhinda after having consulted with each other decided regarding keeping some amount being guarantee with some joint person, for giving some amount directly and the applicant after meeting with Gurmeet Singh etc at Italy itself in the presence of Paramjeet Singh alias Pamma, Sukhraj Kaur, kept approximately 7000 euros with Paramjeet Singh alias Pamma, Sukhraj Kaur as security and gave got transferred approximately 2000 euros to Gurmeet Singh, Malkeet Singh etc on 29.10.2020 in the account given by his known Raman Kumar, resident of Italy from the account of his grandson Harmanjot Singh of Italy. According to the version of Manjeet Kaur, it was said regarding giving the remaining amount in Punjab (India). Thereafter Manjeet Kaur by saying regarding non transferring the amount account in the earlier given by her, by getting transferred a sum of Rs, 50000/- in the account No. 12171050039459 of HDFC SBI Bank Branch Makhu of Ajaib Singh, Retired Police Inspector on dated 11.11.2020 from account No. 55130511725 of SBI Bank Branch Gajewas of Jarnail Singh, resident of Gajewas of applicant party, obtained the same and said regarding transferring the remaining amount in the joint account No. 65056682224 of Malkeet Singh, Baljeet Kaur, residents of Butala, now resident of Italy, on which out of the relatives of applicant, on 24.12.2020 Rs. 450000/- by Harjinder Singh, Rs. 380000/- by Husandeep Singh and Rs. 360000/- on dated 16.02.2021 were transferred in the joint account of Malkeet Singh, Baljeet Kaur. Rs. 230000/- from the account of Harjinder Singh were transferred on 01.03.2020 being guarantee/responsibility in the account of Parwinder Singh alias Bhinda, but after obtaining the amount of Rs. 24 lakhs, by not calling after sending work permit/visa of the relatives of the applicant Balkar Singh and Gurdhian Singh to. Italy by the above mentioned Gurmeet Singh, Malkeet Singh, Baljeet Kaur, Manjeet Kaur and stopping the attending the phone calls, the applications were submitted by Gurdhian Singh, applicant Balkar Singh against them, during the course of enquiries of which, Parwinder Singh alias Bhinda had returned the amount of 9 lakhs kept being guarantee with Paramjeet Singh alias Pamma and Sukhraj Kaur to the applicants and the amount of Rs. 50000/- which were obtained by Manjit Kaur with the intention of cheating after getting transferred the same in the amount of Jarnail Singh relative of applicant have since been returned in his account by Ajaib Singh Retired Inspector, but by the payment of 2000 euros obtained by Gurmeet Singh etc at Italy through the account of Raman Kumar etc and Rs. 1190000/- through joint account No. 6506682224 of Malkeet Singh, Baljeet Kaur by the above mentioned Gurmeet Singh, Manjeet Kaur, residents of Butala, Now resident of Italy and by not calling the applicant and relative to Italy by sending work permit/visa to them and by flatly refusing to return the amount, have committed cheating of 2000 Italian euros and Indian Currency of Rs. 1190000/- with the applicant and

his relatives, on account of finding settlement of whose entire talk while sitting at the house of Gurdhian Singh, resident of Balberha in the very beginning, the occurrence is found to be of Police Station Sadar Patiala, against whom the commission of offence under Sections 406, 420, 120-B IPC stands proved very well. After registering case against the second party Gurmeet Singh, Manjeet Kaur wife of Gurmeet Singh, residents of Makhu, Malkeet Singh son of Gurmai Singh, Baljeet Kaur wife of Malkeet Singh, residents of Butala, District Kapurthala, now Italy, investigation is required to be set into motion.. If approved then the Station House Officer, Police Station Sadar Patiala may be issued appropriate order. The report is submitted for appropriate order. Sd/ Deputy Superintendent of Police, Head Quarter, Patiala. On which SSP Patiala while sending the above mentioned application to the DA Legal, mentioned that "DA Legal for opinion". Sd/- Sr. Superintendent of Police, Patiala. On which DA Legal while giving his opinion vide No. 68/DA/L dated 23.02.2023 has mentioned that "Subject: Regarding application bearing No. 1261/Peshi dated 18.02.2023 by Balkar Singh son of Swaran Singh, resident of Village Gajewas, District Patiala. I have carefully gone through the documents under subject. According to the report of inquiry officer, the opposite party by not sending the work permit visa to the relatives of the applicant by not calling at Italy and by flatly refusing to pay the amount have committed cheating of 2000 Italian euros and Indian Currency of Rs. 1190000/- with the applicant and his relatives. The recommendation regarding registration of case for the offence under Section 406, 420, 120-B IPC against the opposite party has been made by the Inquiry Officer. According to my opinion, on the basis of the above mentioned report of the inquiry officer, primarily after registering the case for the offence under Section 406, 420, 120-B IPC against the opposite party, thorough investigation is required to be conducted. If the opposite party does not have license regarding sending abroad, then the addition of section 13 of The Punjab Travel Professionals Regulation Act, 2012 is required to be made. During the course of investigation, in accordance with the evidence came on the file, the increase-decrease of the charges and accused persons can be made. Sd/-District Attorney (Legal) Patiala. On which SSP, Patiala wrote "SHO PS Sadar Patiala for n/a." Sd/- Senior Superintendent of Police Patiala, on which registering of case FIR No. 22, dated 05.03.2023, under section 406, 420, 120-B IPC, PS SDR PTL against Gurmeet Singh, Manjeet Kaur wife of Gurmeet Singh, residents of Makhu, Malkeet Singh son of Gurmai Singh, Baljeet Kaur wife of Malkeet Singh, residents of Butala, District Kapurthala, now Italy had been started, upon completion of verification copy, the writing is closed. The completion of record has been got done from Moharrir Head Constable of Police Station. Copies of the FIR are being sent through post to the Area Magistrate and Senior Officer. Information is being given to the Incharge Control Room and Senior Officers through email. The case file along with original application is being given to ASI Nishan Singh 1231/Patiala, Incharge Police Post Balberha, Police Station Sadar Patiala for investigation."

3. Contentions

On behalf of the petitioner

The learned counsel for the petitioner submits that the petitioner has been falsely implicated in the present matter and has no involvement in the

alleged fraud. It is further submitted that the complainant has lodged this complaint with the police in an attempt to extort and intimidate the petitioner. The counsel on behalf of the petitioner undertakes that the petitioner is ready and willing to join the investigation.

Notice of motion.

On behalf of the respondent/State

Mr. Jaspal Singh Guru, AAG Punjab, appearing on advance notice, accepts notice on behalf of the respondent/State and submits that the petitioner alongwith co-accused has been specifically named in the FIR and both has collectively received the amount from the complainant, therefore, custodial interrogation of the petitioner is required.

4. Analysis

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 petitioner, along with his co-accused, is alleged to have deceived the complainant by taking Rs.24,00,000/- under the pretext of arranging work permits for the relatives of the complainant to travel to Italy. This accusation is serious and suggests fraudulent intent on the part of the petitioner. During the inquiry, it has come to light that a partial amount has been refunded; however, a sum of Rs. 11,90,000/- remains outstanding and has not been returned so far. As per the version of the prosecution, the petitioner has got deposited 2000 Euros from the complainant in the account of one Raman Kumar, which is also yet to be recovered for which custodial interrogation is required.

Such an allegation is certainly required adequate and intense investigation to unearth the truth. Moreover, nowadays such type of offences are on the rise in the society causing unnecessary harassment and humiliation to the innocent persons for not fault on their part. The mere contention that the petitioner is ready and willing to join the investigation does not vest a right for grant him anticipatory bail because an element of cheating is involved in it. The case made out against the petitioner is certainly a relevant ground for denial of anticipatory bail in the case in hand.

The Hon'ble Supreme Court in the case of ***Sumitha Pradeep Vs. Arun Kumar C.K. & Anr. 2022 Live Law (SC) 870*** held that merely because custodial interrogation was not required by itself could not be a ground to grant anticipatory bail. The first and the foremost thing the Court hearing the anticipatory bail application is to consider is the prima facie case against the accused. The relevant extract of the judgment is reproduced hereinbelow:-

“It may be true, as pointed out by learned counsel appearing for Respondent No.1, that charge-sheet has already been filed. It will be unfair to presume on our part that the Investigating Officer does not require Respondent No.1 for custodial interrogation for the purpose of further investigation.

Be that as it may, even assuming it a case where Respondent No.1 is not required for custodial interrogation, we are satisfied that the High Court ought not to have granted discretionary relief of anticipatory bail.

We are dealing with a matter wherein the original complainant (appellant herein) has come before this Court praying that the anticipatory bail granted by the High Court to the accused should be cancelled. To put it in other words, the complainant says that the High Court wrongly exercised its discretion while granting anticipatory bail to the accused in a very serious crime like POCSO and, therefore, the order passed by the High Court granting anticipatory bail to the accused should be quashed and set aside. In many anticipatory bail matters, we have noticed one common argument being canvassed that no custodial interrogation is required and, therefore, anticipatory bail may be granted. There appears to be a serious misconception of law that if no case for custodial interrogation is made out by the prosecution, then that alone would

be a good ground to grant anticipatory bail. Custodial interrogation can be one of the relevant aspects to be considered along with other grounds while deciding an application seeking anticipatory bail. There may be many cases in which the custodial interrogation of the accused may not be required, but that does not mean that the prima facie case against the accused should be ignored or overlooked and he should be granted anticipatory bail. The first and foremost thing that the court hearing an anticipatory bail application should consider is the prima facie case put up against the accused. Thereafter, the nature of the offence should be looked into along with the severity of the punishment. Custodial interrogation can be one of the grounds to decline custodial interrogation. However, even if custodial interrogation is not required or necessitated, by itself, cannot be a ground to grant anticipatory bail.”

More so, investigation is still going on in the present case. It is settled proposition of law that power exercisable under Section 438 Cr.P.C., is somewhat extraordinary in character and it is to be exercised in exceptional cases. The Supreme Court in “State vs. Anil Sharma”; (1997) 7 SCC 187, held as under:-

“We find force in the submission of the CBI that custodial interrogation is qualitatively more elicitation oriented than questioning a suspect who is well ensconded with a favourable order under Section 438 of the code. In a case like this effective interrogation of a suspected person is of tremendous advantage in disinterring many useful informations and also material which would have been concealed. Success in such interrogation would elude if the suspected person knows that he is well protected and insulated by a pre-arrest bail order during the time he is interrogated. Very often interrogation in such a condition would reduce to a mere ritual. The argument that the custodial interrogation is fraught with the danger of the person being subjected to third-degree methods needs not be countenanced, for, such an argument can be advanced by all accused in all criminal cases. The Court has to presume that responsible police officers would conduct themselves in a responsible manner and that those entrusted with the task of disinterring offences would not conduct themselves as offenders.”

4. DECISION

In view of the seriousness of the allegations as also the need to take the investigation to its logical conclusion, the custodial interrogation of the petitioner is certainly required. Therefore, I find no merit in the instant petition, hence, the same is hereby 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.

(SANDEEP MOUDGIL)
JUDGE

03.03.2025
Meenu

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|---------------------------------|---------|
| 1. Whether speaking/ reasoned : | Yes /No |
| 2. Whether reportable : | Yes /No |