IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

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CRM-M-14666-2025
DATE OF DECISION: 18.03.2025

HARPREET KAUR ...PETITIONER

Versus

STATE OF PUNJAB ... RESPONDENT

CORAM: HON'BLE MR. JUSTICE SANDEEP MOUDGIL

Present: Mr. Vansh Chawla, Advocate for the petitioner(s).

Mr. Jaspal Singh Guru, AAG, Punjab.

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SANDEEP MOUDGIL, J (ORAL)

1. **Prayer**

This petition has been filed under Section 482 of the Bharatiya Nagarik Suraksha Sanhita (BNSS), 2023 for the grant of Anticipatory Bail to the petitioner in FIR No. 148 dated 23.12.2024 under Section 420, 120-B IPC and Section 24 of Immigration Act, registered at Police Station Koom Kalan, District Police Commissionerate, Ludhiana (Punjab)

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

> *'Contents of the FIR Application PGID No.354293, Complaint No.353795, dated 22.05.2024, To the Worthy Commissioner of Police, Ludhiana, Subject; sir, application against (1) Hardeep kaur daughter of S.Jagdev Singh (Mobile No.00393445056265, 00393510171594) residents of village Ghaloti, near Rara Sahib, Tehsil and District Ludhiana, now residents of VICOLO CHIARVANI 1904018 SEZZE LATINA, ITALY (2) Harpreet Kaur wife of Jagdev Singh, (Mobile*

No.99152-78550), (3) Pooja Sony wife of Jagdeep Singh, both residents of village Ghaloti, near Rara Sahib, Tehsil and District Ludhiana (4) Lovepreet Singh son of not known (Mobile No.97819-80597) resident of village Mukandpur, Tehsil and District Ludhiana, who by hatching a common plan with each other have committed a fraud to the tune of Rs. 12,00,000/-by bluffing on the pretext of sending son of the applicant to foreign country (Italy). Sir, it is respectfully submitted that the applicant Davinder Singh son of S.Manjit Singh is resident of village Kohara, Tehsil and District Ludhiana, Punjab and has been respectfully submitting before you as per follows: 1. That the applicant is a law abiding and peace loving citizen of India. 2. That accused No.1 is daughter of accused No.2 and accused No.3 is daughter-in-law of accused No.2 and accused No.4 is nephew (BHATIJA) of accused No.2. In this manner, all the accused persons are relatives of each other. 3. That the applicant gave an amount of Rs. 12,00,000/- (Twelve Lakhs Only) to the above mentioned accused persons on their asking for the purpose of sending his son Arshpreet Singh to abroad (Italy). 4. That accused No.1 to 3 are relatives of the applicant. That accused No.1 had a talk with the applicant Davinder Singh on telephone in September, 2022 from Italy to the effect that if you intend to send your son Arshpreet Singh to Italy, then I can take applicant's son to Italy, because I am engaged in the work of agent in Italy and earlier too I had already taken away number of people to abroad/foreign country. That the applicant came under the influence of the talks of accused No.1 and he expressed his consent for sending his son to abroad. 5. That accused No.1 said that the applicant would have to pay an amount of Rs. 12,00,000/- for the purpose of sending his son to foreign country and the applicant under the influence of the talks of accused No. 1, got ready to give money to the accused No.1. 6. That an account of accused No.1 and 2, in which the applicant got deposited money, is a common bank account. First *of all, the accused no.I made a demand of Rs.2,50,000/-, so that the work of sending applicant's son to abroad can be initiated. Thereafter, on 27.09.2022, the applicant had transferred an amount of Rs.2,50,000/- vide R.T.G.S. from the bank account of his wife bearing No.04140110008249 to the account number 50100514029617 of accused No.1 and 2 opened with H.D.F.C. Bank, Branch, Payal. Thereafter, on 29.09.2022, the applicant had transferred an amount of Rs.2,50,000/- vide R.T.G.S. from the bank account of his wife bearing No.04140110008249 to the account number 50100514029617 of accused No.1 and 2 opened with H.D.F.C. Bank, Branch, Payal. On 19.11.2022, the accused No.I had again made a demand of Rs.50,000/- for sending abroad, on which the applicant had transferred an amount of Rs.50,000/- vide NEFT from the bank account of his wife bearing No.04140110008249 to the account number 50100514029617 of accused No.1 and 2 opened with H.D.F.C. Bank, Branch, Payal. 7. That the accused No. 1 had come to India on 1" March, 2023 and thereafter, the accused No.1 and 3 had visited house of the applicant on 08.03.2023 for meeting him and said that now your son shall go to abroad in a very less time and said that you would have to make arrangement of some more money and accused No.1 to 3 had again made a demand of Rs.1,50,000/-, on which the applicant by making an arrangement of Rs.1,50,000/- with an immediate effect, handed over an amount of Rs.1,50,000/- to the accused no.2 in the presence of Ramandeep Kaur wife of Gursewak Singh resident of village Kohara, Tehsil and District Ludhiana. Then accused No.1 to 3 started saying that now papers of your son for Italy should be received only in few days, but you would have to keep arranged some more money. Thereafter, phone call of accused No.3 was received on 29.03.2023 and she made a demand of more amount of Rs.4,00,000/-and on this, the applicant said to the accused No.3 that no papers for going abroad have yet been received, on which, accused No.3 gave assurance that son of the* *applicant would be on the land of Italy, on which, the applicant by believing the accused No.3, asked her to take away an amount of Rs.4,00,000/- by visiting his house. 8. That on 02.04.2023, a phone call of accused No.2 was received, who said that papers of applicant's son Arshpreet Singh for going to Italy have been received and the applicant would have to make arrangement of more amount of Rs. 1,50,000/-. On which, the applicant under the influence of talks of accused No.2 and by believing her version as true, got ready to give money and on 03.04.2023, a boy named Lovepreet, who is brother of accused No.1 and nephew (BHATIJA) of accused No.2 had come and said that I have been send by accused No.2 for collecting money. That the applicant had handed over an amount of Rs. 1,50,000/- in cash to Lovepreet Singh at his house situated at village Kohara in the presence of Ramandeep Kaur wife of Gursewak Singh resident of village Kohara, Tehsil and District Ludhiana. 9. That after a period of about 1 month, the applicant made a demand of papers for sending his son to foreign country and asked accused No.1 to 3 for sending his son to abroad/foreign country, but the accused No.1 to 3 started lingering on the matter on one pretext or the other and they never gave satisfactory reply. 10. Thereafter, the applicant along with his son had visited the above mentioned accused No.2 and 3 for number of times, but the above mentioned accused persons continued to linger on the matter on one pretext or the other and continued to pass the time on the pretext of sending abroad very soon. It is pertinent to mention here that accused No.1 had blocked the applicant and his wife from his phone number, so that the applicant and his wife cannot talk with accused No.1 as regards sending their son to foreign country. 11. That applicant's wife had talked with accused No.1 on Whatsapp for number of times, copy of its chat is attached herewith. The applicant is also having recordings of Whatsapp, in which the accused No.1 has been talking to the effect of sending applicant's son to foreign* *country, which can be produced by me before you in case of arising any such requirement. 12. That the applicant had asked accused No.1 to 3 that if you cannot send my son to abroad, then you may please return the money which I have given to you, but the accused No.1 to 3 had flatly refused to return the money and said that you can do whatever you want to. The above mentioned accused persons hurled threat to the applicant and his son that they have higher up-links/approach and the applicant cannot cause any harm to them and the above mentioned accused persons had caused fear in the mind of applicant and his son that they would kill them and the above mentioned accused persons told the applicant in clear-cut words that their intention was to commit fraud since very beginning, in which they have succeeded. That accused No.1 present in Italy has been used to hurl threats to kill to the applicant from her phone number 00393445056265. 13. That the applicant is very much frightened with these threats being hurled to him by the above mentioned accused persons. The applicant apprehends that the above mentioned accused persons themselves or through somebody else can cause loss to the life and property of the applicant and his son at any point of time. Keeping in view the above mentioned facts and circumstances, it is hereby requested to you that an appropriate legal action may please be taken against the abovementioned accused persons and total saved hard earned money of the applicant may please be get returned to him and live and property of the applicant may please be saved and justice be done to the applicant. I shall be highly grateful to you. Sd/- Davinder Singh, applicant, dated 07.05.2024, Davinder Singh son of S.Manjit Singh is resident of village Kohara, Tehsil and District Ludhiana. Mobile No.98760-12358".*

3. <u>Contentions</u>

<u>On behalf of the petitioner</u>

Learned counsel for the petitioner has argued that the petitioner has been falsely implicated in the present case. He submits that there is unexplained delay of 1 year and 9 months in registration of the FIR. Apart from that, it is also contended by him that against the alleged payment made, visa was duly arranged for Jatinder Kaur-wife of the complainant and thereafter, she left for Italy. He further contends that the only allegation qua the present petitioner could be highlighted is at best is that of being the mother of main accused namely Hardeep Kaur who is settled in Italy and facilitated the issuance of visa for wife of the complainant.

Learned counsel for the petitioner undertakes that the petitioner is ready and willing to join the investigation and cooperate with the investigating officer.

Notice of motion.

On behalf of the State

Learned State Counsel appearing on advance notice on instructions from Investigating officer vehemently opposes the prayer for grant of concession of anticipatory bail stating that an amount of Rs. 5.50 lakhs was transferred to the bank account jointly owned by the present petitioner and the main accused Hardeep Kaur. However, he could not deny the fact that the same was meant for the main accused Hardeep Kaur who has settled in Italy for facilitating the issuance of visa for Italy.

4. **Analysis**

Having given a thoughtful consideration to the totality of the circumstances mentioned hereinabove, the essence of Section 420 and 120-B IPC *prima facie* seems to be absent, as far as submission made before this Court are concerned as the promise made by the petitioner or her daughter admittedly stands fulfilled and admittedly, the present FIR has been lodged after delay of 1 year and 9 months from the date of transaction of the money. The very fact is also a matter of record that visa was actually arranged and stands issued in favour of Jatinder Kaur i.e. wife of the complainant and the amount, if any meant for said purpose was in the joint account of the petitioner and her daughter was a service rendered i.e. for issuance of the said visa.

In light of the above, learned State Counsel has failed to make out a case for custodial interrogation by any stretch, hence, this Court finds no reason to deny the petitioner the concession of anticipatory bail, wherein the petitioner has bona fide intentions and is willing to join the investigation and cooperate for furtherance of the same so that the final report can be submitted by the Investigating Agency within the stipulated time period.

5. **<u>Relief</u>**

Hence, in view of the admitted set of circumstances before this Court, the petitioner is hereby directed to be released on anticipatory bail subject to her joining investigation and reporting to the Investigating Officer concerned within a period of one week from today, on furnishing of personal/surety bonds to the satisfaction of Arresting/Investigating Officer. The petitioner shall also abide by the terms and conditions as envisaged under Section 482(2) of BNSS of which are reproduced below :-

> *'When the High Court or the Court of Session makes a direction under sub-section (1), it may include such conditions in such*

directions in the light of the facts of the particular case, as it may think fit, including-

(i) a condition that the person shall make himself available for interrogation by a police officer as and when required;

(ii) a condition that the person 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;

(iii) a condition that the person shall not leave India without the previous permission of the Court;

(iv) such other condition as may be imposed under sub-section (3) of section 480, as if the bail were granted under that section.'

However, it is made clear that in case the petitioner does not comply with the aforesaid direction of joining the investigation within one week, the order passed by this Court today shall automatically stand cancelled.

The petition in the aforesaid terms stand allowed.

(SANDEEP MOUDGIL)
JUDGE

18.03.2025
anuradha

Whether speaking/reasoned *Yes/No*
Whether reportable *Yes/No*