IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

102 **CRM-M-33670-2025**

Date of decision: 11.08.2025

Gagandeep Singh @ Gagan

....Petitioner

V/s

State of Punjab and another

....Respondents

CORAM: HON'BLE MR. JUSTICE SUMEET GOEL

Present: Mr. S.S. Rangi, Advocate for the petitioner.

Mr. Gurpartap S. Bhullar, AAG Punjab.

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SUMEET GOEL, J. (Oral)

1. Present petition has been filed under Section 482 of Bharatiya Nagarik Suraksha Sanhita, 2023 (hereinafter to be referred as 'the BNSS') for grant of pre-arrest/anticipatory bail to the petitioner in case bearing FIR No.430 dated 08.12.2021, registered for the offences punishable under Section 420 of IPC at Police Station Islamabad, District Amritsar.

2. The gravamen of the FIR in question pertains to defrauding the complainant namely Asha Kumari who alleged that she had approached the petitioner, who was then working under the banner of 'Heyday Education', SCO-17, Opposite Taj Restaurant, Chhoti Baradari, Jalandhar, after viewing an advertisement on Facebook in June 2019. The petitioner allegedly assured the complainant that he would first secure a Canadian visitor visa and thereafter convert it into a work permit upon her arrival in Canada, for a total consideration of 40,000 Canadian dollars; part to be paid in India and the balance after her arrival in Canada. It is alleged that in pursuance of this understanding, the complainant initially paid ₹10,000/- in cash, followed by further transfers including ₹35,000/- and ₹2,13,890/- to the bank account of

petitioner and his agency bank account in India. After reaching Canada, the complainant allegedly transferred an additional sum of ₹2,83,500/- to the account of the petitioner, besides handing over 5,000 dollars for her own work permit and 2,800 dollars towards the work permit of family of her relative. Despite receipt of these amounts, the petitioner allegedly neither failed to secure any work permit either for the complainant or her relatives nor refund the money, thereby causing wrongful loss and misappropriating the same. On these set of allegations, instant FIR has been registered and investigation ensued.

3. Learned counsel for the petitioner has iterated that the petitioner is innocent and has been falsely implicated into the FIR in question. It has been further iterated that at the relevant time, the petitioner was merely working as a visa counsellor at Heyday Education owned by one Ms. Brawni and the petitioner has no independent role in the transaction. It has been further submitted that the petitioner has received only the visa processing fee and denied any demand/receipt of any amount for conversion of the visitor visa into a work permit. Learned counsel has further submitted that the FIR in question is vague and failed to attribute any specific overt act or recovery. Learned counsel asserts that the allegations levelled against the petitioner in the impugned FIR are entirely baseless and devoid of any credible or cogent material. According to learned counsel, in the absence of substantive and incomplete material, the entire prosecution narrative is nothing but an abuse of process. Furthermore it has been further argued that there is no need for custodial interrogation of the petitioner, as the case is document based and the petitioner poses no flight risk or threat to the investigation. On strength of aforesaid submissions, the grant of anticipatory bail is entreated for.

4. *Per contra,* learned State counsel (on the strength of advance notice) has opposed the petition by arguing that the allegations raised against the petitioner are serious, involving cheating and misappropriation to the tune of approximately ₹13.00 lacs. It has been further urged that the petitioner has sent the complainant on a visitor visa with the promise of converting it to a work permit but failed to fulfill his promise or refund the amount. It has been further submitted that the recovery is yet to be effected and hence the custodial interrogation of the petitioner is necessary for unearthing the complete facts. He has further emphasized that releasing the petitioner on bail at this crucial stage may hamper the ongoing investigation and potentially lead to tampering with evidence or influencing of witnesses. Accordingly, a prayer has been made for the dismissal of the instant petition in order to facilitate effective investigation into the alleged offence.

5. I have heard the learned counsel for the rival parties and have gone through the available record of the case.

6. As per the case put forth in the FIR in question, indubitably, serious allegations have been levelled against the petitioner. The FIR *ibid* was lodged on the basis of a complaint filed by the complainant, who alleged that she had approached the petitioner who was working in Heyday Education in Jalandhar, after seeing an advertisement on the facebook. The petitioner allegedly promised to secure her a Canadian visitor visa and later convert it into a work permit for 40,000 Canadian dollors, partly payable in India and the rest in Canada. Besides paying various amounts totaling several lacs in India and Canada, the petitioner allegedly failed to arrange any work permit and did not refund the amounts causing wrongful loss. The material which has come on record disclosed that the allegations against the

petitioner are not vague or general but are specific, supported by details of payments allegedly made in India and Canada. The stand of the State is that amounts in question were received directly in the account of the petitioner or in the account of his agency. Furthermore, the claim of the petitioner that he was merely an employee and not the primary beneficiary of the funds is a matter to be examined at trial and does not, at this stage, absolve the *prima facie* evidence of his active involvement. The offences alleged are of a serious nature, involving not only a substantial financial loss to the complainant but also exploitation of her aspiration to settle abroad.

6.1. The offence in question does not merely involve financial deceit but strikes at the very fabric of social trust, involving elements of human trafficking and cross-border immigration fraud, which are not only grave in nature but also have far-reaching consequences on public order. Cases of this nature, where vulnerable individuals are lured with false promises of lawful migration and are subsequently subjected to exploitation, fall within the ambit of organized human trafficking and merit strict judicial scrutiny and deterrence. Human trafficking under the garb of immigration consultancy is a growing menace which preys upon the desperation and dreams of unsuspecting citizens. The Courts must remain vigilant and ensure that such rackets are not emboldened by leniency at the pre-trial stage. The fraudulent inducement for illegal migration, followed by subjecting individuals to inhumane and life-threatening conditions abroad, not only reflects criminal intent but also constitutes a serious affront to human dignity and national interest. The Court cannot overlook the broader public interest involved in cases of immigration fraud, especially when they border on transnational human trafficking. Such offences necessitate a strong and principled judicial response to prevent their recurrence.

6.2. A perusal of the FIR reveals that the allegations against the petitioner are grave and serious in nature who defrauded the complainant of a substantial amount under the false pretext of facilitating her legal to the Canada. Such offences strike at the core of public trust and reflect a disturbing trend prevalent in this region, where unscrupulous individuals posing as travel facilitators exploit the aspirations of innocent citizens seeking opportunities abroad. These fraudulent activities not only cause severe financial and emotional distress but also undermine the integrity of lawful immigration systems. Therefore, individuals involved in such organized deceit must be dealt with firmly and in accordance with the law, leaving no room for leniency.

6.3. Furthermore, the investigating agency has sought the custodial interrogation of the petitioner for effective recovery, verification of facts, and to establish the broader conspiracy, if any, behind the occurrence. No cause *nay* plausible cause has been shown, at this stage, from which it can be deciphered that the petitioner has been falsely implicated into the present FIR. It goes without saying that in the instant case, the complainant has categorically stated that the petitioner had defrauded her of a substantial amount under the false pretext of facilitating her legal migration to Canada which caused severe financial and emotional distress.

7. During the course of the proceedings, learned counsel for the petitioner has submitted before this Court on 01.07.2025 that petitioner was inclined to amicably resolve the dispute and to demonstrate his bona fide; the petitioner was even willing to remit the amount. However, this Court is

of the considered view that such an attempt does not absolve the petitioner of the legal consequences arising therefrom. A profitable reference in this regard can be made to the recent judgment of the Hon'ble Supreme Court titled as ***Gajanan Dattatray Gore vs. The State of Maharashtra and another, 2025 INSC 913***, relevant whereof reads as under:

> *"19. By this order, we make it clear and that too in the form of directions that henceforth no Trial Court or any of the High Courts shall pass any order of grant of regular bail or anticipatory bail on any undertaking that the accused might be ready to furnish for the purpose of obtaining appropriate reliefs.*
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> *20. The High Courts as well as the Trial Courts shall decide the plea for regular bail or anticipatory bail strictly on the merits of the case. The High Courts and the Trial Courts shall not exercise their discretion in this regard on any undertaking or any statement that the accused may be ready and willing to make.*
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> *21. This practice has to be stopped. Litigants are taking the courts for a ride and thereby undermining the dignity and honor of the court."*

8. Furthermore, it is befitting to mention here that while considering a plea for grant of anticipatory bail, the Court has to equilibrate between safeguarding individual rights and protecting societal interest(s). The Court ought to reckon with the magnitude and nature of the offence; the role attributed to the accused; the need for fair and free investigation as also the deeper and wide impact of such alleged iniquities on the society. At this stage, there is no material on record to hold that *prima facie* case is not made out against the petitioner. The material which has come on record and preliminary investigation, appear to establish a reasonable basis for the accusations. Thus, it is not appropriate to grant anticipatory bail to the petitioner, as it would necessarily cause impediment in effective investigation. In ***State v. Anil Sharma, (1997) 7 SCC 187 : 1997 SCC (Cri) 1039***, the Hon'ble Supreme Court held as under : (SCC p. 189, para 6)

> *"6. We find force in the submission of CBI that custodial interrogation is qualitatively more elicitation-oriented than questioning a suspect who is well-ensconced 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 materials 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 need 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."*

9. In view of the gravity of the allegations, the specific role attributed to the petitioner and the necessity of custodial interrogation for a fair and thorough investigation, this Court is of the considered opinion that the petitioner does not deserve the concession of anticipatory bail in the factual matrix of the case in hand. Moreover, custodial interrogation of the petitioner is necessary for an effective investigation & to unravel the truth. The petition is, thus, devoid of merits and is hereby dismissed.

10. Nothing said hereinabove shall be deemed to be an expression of opinion upon merits of the case/investigation.

11. Pending application(s), if any, shall also stand disposed off.

(SUMEET GOEL)
JUDGE

August 11, 2025
Ajay

Whether speaking/reasoned: Yes/No

Whether reportable: Yes/No