



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

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**CRM-M No.38728 of 2025
Date of decision : 25.7.2025**

Balraj Kaur @ Mahi Gill**.....Petitioner****Versus****State of Punjab****.....Respondent****CORAM: HON'BLE MR. JUSTICE SUMEET GOEL**

Present: Mr. Rohit Singla, Advocate, for the petitioner

Mr. Jasjeet Singh, DAG, Punjab

SUMEET GOEL, J. (ORAL)

1. Present petition has been filed under Section 483 of the Bharatiya Nagarik Suraksha Sanhita, 2023 (for short 'BNSS') for grant of regular bail to the petitioner in case FIR No.107 dated 11.5.2024, under Sections 406, 420, 120-B of IPC and Section 24 of Immigration Act, registered at Police Station Mataur, SAS Nagar.
2. The case set up in the FIR in question (as set out in the present petition by the petitioner) is as follows:-

'Copy of complaint bearing no. 10179/S/SSP dated 02.11.2023, To Hon'ble SSP, SAS Nagar, Mohali Subject: Regarding complaint against the owner Nishan Singh of The Visa Land Travel Company situated at SCO 523-524, Sector 70 Mohali and their agent Mahi. Jaspreet, Kabir office Contact No. 7696955579, 7657851787, 9875917983 for committing fraud on pretext of sending abroad and duping Rs 6,00,000/-. Copy Annexed. Respected Sir, I, Rohini Sharda daughter of Sunita Devi resident of 254D, Railway Colony-3, Jalandhar, Punjab and submitting



written complaint before you: 1) That I am resident of above-mentioned address. 2) That in the year 2021, I wanted to move abroad therefore I had to apply for Canadian PR, regarding this I saw an advertisement on TV of the above mention company The Visa Land and I contacted them on given number and talked with them and they told me to visit in their office at Sector 70 and meet them personally and they will provide me satisfied services. 3) That in the year 2021, I met them in their office at sector 70. That on that day I spoke to them and paid them Rs 25,000 as processing fee. They gave me guarantee that my Canadian PR visa will come in 1.5 year and further told me that i have to give 4.50 Lac more before visa and 2.5 lac after visa. Thereafter they told me that for alumni the consultation fee is 30,000. Thus, in total they have taken Rs. 6,00,000/- from me. 4) the above mentioned payment is given by me in instalments because the complete process is for 3 months and further they told me that when the whole process will be completed we will call you again but they didn't tell us anything and after 6 months when we enquired they told us that my file is under process, then after some months we again called them, they told us that my file has been sent in embassy in May 2023 and the visa can come any time. 5) Today we went to their office, we saw number of other person who gathered there and told us that they have committed fraud and duped money on the pretext of sending abroad. Thereafter, we went inside the office, we saw that they have called bouncers for us, they started assaulting us. When we started recording video then they tried to snatch my phone. Therefore, it is requested to you that kindly get my money back and further appropriate action be taken against all the members of the company so that they may not commit fraud with any one in future. My original passport is also with them, kindly get it back from them. Thank you. Yours sincerely. Sd/- Rohini Sharda daughter of Sunita Devi resident of 254D, Railway Colony Cantt, Cantt Jalandhar, Police Commissionerate, Jalandhar, Punjab Mobile No. 9041280114, dated 25.10.2023. Copy of Complaint bearing no. 10180/S/SSP dated 02.11.2023. To Hon'ble SSP, SAS Nagar, Mohali. Subject: Regarding complaint against the owner of The Visa Land Travel Company situated at SCO 523-524, Sector 70 Mohali and their employee Mahi, Jaspreet, Kabir office Contact No. 7696955579, 7657851787, 9875917983 for committing fraud and duping Rs 6,00,000/- for sending abroad. Copy annexed. Respected Sir, I, Kamalpreet Singh son of Shri Gurdev Singh



resident of House No. 496/7, Guru Nanakpura west, Jalandhar, Punjab and submitting written complaint before you: 1) That I am resident of above mentioned address. 2) That in the year 2021, I wanted to move abroad therefore I had to apply for Canadian PR, regarding this I saw an advertisement on TV of the above mention company The Visa Land and I contacted them on given number and talked with them and they told me to visit in their office at Sector 70 and meet them personally and they will provide me satisfied services. 3) That in the year 2021, I met them in their office at sector 70. That on that day I spoke to them and paid them Rs 25,000 as processing fee. They gave me guarantee that my Canadian PR visa will come in 1.5 year and further told me that i have to give 4.50 Lac more before visa and 2.5 lac after visa. Thereafter they told me that for alumni the consultation fee is 30,000. Thus, in total they have taken Rs. 6,00,000/- from me. 4) the above mentioned payment is given by me in instalments because the complete process is for 3 months and further they told me that when the whole process 4 will be completed we will call you again but they didn't tell us anything and after 6 months when we enquired they told us that my file is under process, then after some months we again called them, they told us that my file has been sent in embassy in May 2023 and the visa can come any time. 5) Today we went to their office, we saw number of other person who gathered there and told us that they have committed fraud and duped money on the pretext of sending abroad. Thereafter, we went inside the office, we saw that they have called bouncers for us, they started assaulting us. When we started recording video then they tried to snatch my phone. Therefore, it is requested to you that kindly get my money back and further appropriate action be taken against all the members of the company so that they may not commit fraud with any one in future. My original passport is also with them, kindly get it back from them. Thank you. Yours sincerely. Sd/- Kamalpreet Singh son of Shri Gurdev Singh resident of House No. 496/7, Guru Nanakpura west, Jalandhar, Punjab Mobile No. 9646367265 dated 25.10.2023. The above complaint has been submitted before the Hon'ble SSP Mohali and the same was marked to Deputy Superintendent of Police (C), District SAS Nagar. He in his inquiry report bearing No. 449/5C/DSP dated 03.03.2024, wrote that, Subject:- Complaint/number 10179/S/SSP dated 02.11.2023 from Rohini Sharda daughter of Sunita Devi resident of house No.254D Railway Colony -3, Jalandhar and



Complaint/number. 10180/S/SSP dated 02.11.2023 by Kamaljeet Singh son of Gurdev Singh resident of House No. 496/7, Guru Nanakpura, West Jalandhar regarding report, respected Sir, the above mentioned written complaints were received in the office of undersigned for investigation, after perusing it has been found that the complaint has been filed against Nishan Singh, Mahi, Jaspreet Singh, Kabir (Visa Land Immigration) for committing fraud on the pretext of sending abroad and duped them for Rs 6-6 lac. During investigation my predecessor DSP, SAS Nagar made them join investigation and recorded their statement and the same has been perused and the same has been annexed. Investigation till today, recorded statement and found from complaint that applicants wanted to go Canada, who contacted Nishan Singh, Mahi, Jaspreet Singh, Kabir (Visa Land Immigration), who on the pretext of sending abroad duped complainants for 6-6 lac. During investigation, the legal advisor of second party Manjinder Singh son of Ajmer Singh gave affidavit and told that they will come to office and if they failed to come, appropriate action be taken but second party did not come again. Therefore, at this stage FIR, it is recommended to register a case under section 406, 420, 120-B IPC at PS Matur District SAS Nagar against Nishan Singh, Mahi, Jaspreet Singh, Kabir (Visa Land Immigration) SCO 523-24, Sector-70. Sd/- Deputy Superintendent of Police (C), SAS Nagar. The above investigation report was presented by DSP, district SAS Nagar, Mohali before the Hon'ble SSP, District SAS Nagar, Mohali. On which Hon'ble SSP, SAS Nagar wrote, "SHO Mataur Register the case and investigate Sd/- Sr. Supdt. Of Police, District SAS Nagar Mohali. Today the same is received in police station on which the FIR is registered against Nishan Singh, Mahi, Jaspreet Singh Kabir (Visa Land Immigration) SCO 523-24, Sector 70. xxxxxxXXXXXXXXXX.'

3. Learned counsel for the petitioner has argued that the petitioner is in custody since 7.11.2024. Learned counsel has further argued that the petitioner has been falsely implicated into the FIR in question. Learned counsel has further submitted that, in fact, it is the co-accused namely Nishan Singh who is the main accused as the petitioner is only working in the firm owned by the said accused. Learned counsel has further



submitted that the petitioner is a lady aged about 32 years. Thus, regular bail is prayed for.

4. Learned State counsel has opposed the present petition by arguing that the allegations raised are serious in nature and thus the petitioner does not deserve the concession of the regular bail. Learned State counsel seeks to place on record custody certificate dated 24.7.2025 in Court, which is taken on record.

5. I have heard counsel for the parties and have gone through the available records of the case.

6. The petitioner was arrested on 7.11.2024 whereinafter investigation was carried out and challan was presented in the case on 9.1.2025. Total 12 prosecution witnesses have been cited and only one has been examined till date. It is, thus indubitable that conclusion of the trial will take its own time. It is not in dispute that the trial emanating from the FIR is magisterial one. The rival contention raised at Bar give rise to debatable issues which shall essentially be ratiocinated upon during the course of trial. This Court does not deem it appropriate to delve deep into these rival contentions, at this stage, lest it may prejudice the trial. Nothing tangible has been brought forward to indicate the likelihood of the petitioner absconding from the process of justice or interfering with the prosecution evidence.

6.1 The petitioner is a lady aged about 32 years (As per memo of parties appended with the petition), hence, bail petition ought to be considered in view of proviso to Section 480(2) BNSS. It is pertinent to



mention herein that the proviso to Section 480 BNSS, 2023, is *pari materia* with proviso to Section 437 Cr.P.C., 1973. In this regard, it would be apposite to refer herein to a judgment passed by this Court on 14.03.2024 in **CRM-M-11503-2024** titled as **‘Ravinder Kaur Vs. State of Punjab’** (dealing with proviso to Section 437 Cr.P.C.), relevant thereof reads as under:

“It would be apposite to refer herein to the dicta of a judgment of the Hon'ble Supreme Court in a case of ‘Satender Kumar Antil Vs. Central Bureau of Investigation & Anr., 2022(10) SCC 51’ , which held as under:

51. Proviso to Section 437 of the Code mandates that when the accused is under the age of sixteen years, sick or infirm or being a woman, is something which is required to be taken note of. Obviously, the court has to satisfy itself that the accused person is sick or infirm. In a case pertaining to women, the court is expected to show some sensitivity. We have already taken note of the fact that many women who commit cognizable offenses are poor and illiterate. In many cases, upon being young they have children to take care of, and there are many instances when the children are to live in prisons. The statistics would show that more than 1000 children are living in prisons along with their mothers. This is an aspect that the courts are expected to take note of as it would not only involve the interest of the accused, but also the children who are not expected to get exposed to the prisons. There is a grave danger of their being inherited not only with poverty but with crime as well.

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58. Section 437 of the Code empowers the Magistrate to deal with all the offenses while considering an application for bail with the exception of an offense punishable either with life imprisonment or death triable exclusively by the Court of Sessions. The first proviso facilitates a court to conditionally release on bail an accused if he is under the age of 16 years or is a woman or is sick or infirm, as discussed earlier. This being a welfare legislation, though introduced by way of a proviso, has to be applied while considering release on bail either by the Court of Sessions or the High Court, as the case may be.



The power under Section 439 of the Code is exercised against an order rejecting an application for bail and against an offence exclusively decided by the Court of Sessions. There cannot be a divided application of proviso to Section 437, while exercising the power under Section 439. While dealing with a welfare legislation, a purposive interpretation giving the benefit to the needy person being the intendment is the role required to be played by the court. We do not wish to state that this proviso has to be considered favourably in all cases as the application depends upon the facts and circumstances contained therein. What is required is the consideration per se by the court of this proviso among other factors.'

6.2 As per custody certificate dated 24.7.2025 filed by learned State counsel, the petitioner has already suffered incarceration for a period of about 8 months and 10 days. As per the said custody certificate, the petitioner is stated to be involved in ten more FIRs under Section 420 IPC etc. Indubitably, the antecedents of a person are required to be accounted for while considering a regular bail petition preferred by him. However, this factum cannot be a ground sufficient by itself, to decline the concession of regular bail to the petitioner in the FIR in question when a case is made out for grant of regular bail *qua* the FIR in question by ratiocinating upon the facts/circumstances of the said FIR. Reliance in this regard can be placed upon the judgment of the Hon'ble Supreme Court in ***Maulana Mohd. Amir Rashadi v. State of U.P. and another, 2012 (1) RCR (Criminal) 586***; a Division Bench judgment of the Hon'ble Calcutta High Court in case of ***Sridhar Das v. State, 1998 (2) RCR (Criminal) 477*** & judgments of this Court in ***CRM-M No.38822-2022*** titled as ***Akhilesh Singh v. State of Haryana***, decided on 29.11.2021, and ***Balraj v. State of Haryana, 1998 (3) RCR (Criminal) 191***.



Suffice to say, further detention of the petitioner as an undertrial is not warranted in the facts and circumstances of the case.

7. In view of above, the present petition is allowed. Petitioner is ordered to be released on regular bail on his furnishing bail/surety bonds to the satisfaction of the Ld. concerned CJM/Duty Magistrate. However, in addition to conditions that may be imposed by the concerned CJM/Duty Magistrate, the petitioner shall remain bound by the following conditions:-

- (i) The petitioner shall not mis-use the liberty granted.
- (ii) The petitioner shall not tamper with any evidence, oral or documentary, during the trial.
- (iii) The petitioner shall not absent herself on any date before the trial.
- (iv) The petitioner shall not commit any offence while on bail.
- (v) The petitioner shall deposit her passport, if any, with the trial Court.
- (vi) The petitioner shall give her cell-phone number to the Investigating Officer/SHO of concerned Police Station and shall not change her cell-phone number without prior permission of the trial Court/Illaqa Magistrate.
- (vii) The petitioner shall not in any manner try to delay the trial.

8. In case of breach of any of the aforesaid conditions and those which may be imposed by concerned CJM/Duty Magistrate as directed hereinabove or upon showing any other sufficient cause, the State/complainant shall be at liberty to move cancellation of bail of the petitioner.

9. Ordered accordingly.



10. Nothing said hereinabove shall be construed as an expression of opinion on the merits of the case.

(SUMEET GOEL)
JUDGE

25.7.2025
Ashwani

Whether speaking/reasoned:	Yes/No
Whether reportable:	Yes/No