IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-43369-2024
Reserved on: 06.03.2025
Pronounced on: 27.03.2025

Samriti ...Petitioner

Versus

State of Haryana …Respondent

CORAM: HON'BLE MR. JUSTICE ANOOP CHITKARA

Present: Mr. Manoj Pundir, Advocate
for the petitioner.

Ms. Harpreet Kaur, AAG, Haryana.

Mr. Hritik Gupta, Advocate
for the complainant.

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ANOOP CHITKARA, J.

FIR No.	Dated	Police Station	Sections
300	29.06.2024	Civil Line, Sirsa, District Sirsa, Haryana	406/420/506/120-B IPC (Sections 467/468/471 IPC added later on)

1. The petitioner apprehending arrest in the FIR captioned above has come up before this Court under Section 482 of Bharatiya Nagarik Suraksha Sanhita, 2023, [BNSS], seeking anticipatory bail.

2. In paragraph 21 of the bail petition, the accused declares that she has no criminal antecedents.

3. The facts and allegations are being taken from translated version of FIR, Annexure P-1, which reads as follows:

> *"To the Superintendent of Police, Sirsa. Sub- Complaint against (a) Amanpreet, Arshpreet, Smriti, Akash and Pooja residents of Hey Visa Immigration, SCO 60-61-62, 3rd Floor, Bridge Market, 17-C, Chandigarh (Mobile No.96152-00078) present address Nexusglide Overseas Consultants situated at SCO 78-79, Third Floor, Sector 17-D, Chandigarh, India (Mobile No.84278-42789, 83081-87081) with a prayer to take legal action, (B) Accused have cheated the complainant of Rs.24,60,000/- on the pretext of sending abroad. Therefore, above said case be got enquired through some independent agency like Economic Cell, Crime Branch, Vigilance Department, (C) While complying with the guidelines issued by Hon'ble Supreme Court, registered FIR in the case at the*

earliest. Sir, the applicant respectfully submits as under: (1) That the applicant is resident of Sector 19, H.No.692, Huda Colony, Sirsa and is a housewife. (2) That the applicant wanted to go abroad and do some job. For this purpose, applicant was informed by above said accused persons that they are getting work visa and arrange permanent job in abroad and are performing work with full guarantee and satisfaction. Applicant was assured by the accused that they have already sent thousands of persons to abroad and they would arrange work visa for the applicant as well. Accused persons shows files of a number of persons in this regard. In this way, applicant was entrapped by accused persons by extending false promises. Applicant was interested to go to Australia. Accused persons assured the applicant that they would get her work visa very soon and everything will be done properly and there will not be any problem. For sending the applicant to Australia on work visa and getting her permanent job there, accused persons demanded a total sum of Rs.24,60,000/--Believing in good faith that the accused persons are running their office since long and that there are so many files in their office, applicant agreed to give them a total sum of Rs.24,60,000/-. Applicant informed the accused persons that she does not have this much money in her account and therefore she will transfer Rs.19,80,000/- from the account of her husband in their account and the remaining amount shall be got transferred from the account of her relative Varun son of Sh. Devdutt resident of Ludhiana. At this, accused persons told that they are running business under the name and style of Hey Visa Immigration and they are having account in ICICI Bank, Branch SCO-5, Surya Enclave, Kharar, Landran Road, Mohali 140301 account bearing No.325605000647, IFSC Code No.ICICI0003256 and that accused Amanpreet and Arshpreet are managing the account. Amanpreet and Arshpreet asked me to transfer the money in the account of firm. My husband who was accompanying with me, his name is Sumit Bhandari and my relative Varun resident of Ludhiana was also there. In front of both of them, the deal was finalised. My husband Sumit Bhandari stated that he cannot transfer entire amount in lumpsum. At this, accused Amanpreet, Arshpreet, Smriti and Akash stated that you can transfer money in instalments. As and when the amount would be received the file would be processed. (3) That on the asking of accused persons, Varun resident of Ludhiana transferred a sum of Rs.1,00,000/- into the account of the firm through google-pay on 19.07.2023. On 19.07.2023 itself, a sum of Rs.3,80,000/- more were credited into the firm's account from SBI Bank. In this way, on the asking of accused persons, a sum of Rs.4,80,000/- were transferred in the account of firm. I am enclosing proof of the same with this complaint as Annexure 1, 2 and 3. That there is evidence regarding payment of Rs.1.00 lac and so far as Rs.3,80,000/- is concerned same is reflected in credit card bill. Even bank statement of accused firm have record in this regard. That there are concrete evidences regarding transfer of money into the account of accused. The same may be taken in police possession. I am ready to furnish entire record including credit card bills before the police as evidence. After payment of Rs.4,80,000/- by Varun, accused Smriti and Akash also issued a receipt i.e., Annexure-4, which is being attached with the complaint. That my husband subsequently *transferred funds into the account of accused firm on the asking of accused persons on the below mentioned different dates. Bank statement of my husband is Annexure-5. Pooja, who is cashier told my husband that as small amounts are being transferred, they would continue to process my visa application case for Australian work visa. On the asking of accused persons, my husband transferred money on the below mentioned dates from his account. The detail is as under:-*

Sr No.	Date	Amount
1	02.05.2023	15,000
2	08.05.2023	15,000
3	12.05.2023	4,00,000
4	15.05.2023	45,000
5	31.05.2023	15,000
6	02.06.2023	1,00,000
7	16.06.2023	1,00,000
8	21.06.2023	1,15,000
9	17.07.2023	10,000
10	17.07.2023	12,000
11	17.07.2023	1,05,000
12	19.07.2023	50,000
13	20.07.2023	2,38,000
14	20.07.2023	2,75,000
15	20.07.2023	50,000
16	25.07.2023	70,000
17	10.08.2023	25,000
18	12.08.2023	30,000
19	15.09.2023	15,000
20	19.09.2023	25,000
21	07.10.2023	50,000
22	09.10.2023	70,000
23	19.07.2023	1,00,000 cash given to Akash for opening account in Indusind Bank, Chandigarh.

That thereafter, applicant asked the accused persons that since they have received full amount but work visa has not been arranged. Despite my repeated visits to their office, on 08.05.2023, accused Smriti and Akash gave me one offer letter and also obtain my signatures. On 11.05.2023, I went to *the office of accused. Copy of which is Annexure 6. I enquired about the same from my sources, then I came to know that the said offer letter is a fake one and has not been received from Australia, rather it was prepared by accused persons while sitting in their office. I immediately went to the office of accused and complained about it and told them that they have committed fraud upon me and caused financial loss. At this, manager of the firm, Pooja told me as you need not to bother about offer letter, and that they have arranged job for me in Australia and work-visa will be received within a day or two. She asked to give time of a few days. After a few days, Pooja cashier sent a whatsapp message on mobile of my husband giving time of 5:09 pm on 07.06.2023. Husband of the applicant was called on phone and informed that work visa has been arranged and information about this has been sent on his whatsapp and that reference to offer letter has been posted. Copy of which is Annexure 7. After seeing offer letter sent by Pooja, we got suspicious as there was a reference of petrol pump in the first paragraph and in the second para, there was reference of some college. On getting suspicious, we got the same checked through our resources, whereby it was found fake. Copy of which is annexed as Annexure 7 with the complaint. After sometime, I alongwith my husband some other relatives reached at the office of above accused persons. Then I came to know that they have shifted their office and after committing fraud with several other persons they have changed their office to save themselves from legal and police action. Despite several efforts, I could not get information about their whereabouts. Left with no other alternative, my husband submitted a complaint to SP Sirsa on 14.12.2023, which bears No.5385. That the accused persons in pursuance to a criminal conspiracy and to save themselves from police action, misled the applicant by telling their wrong names. Applicant and her husband accepted their names as the true ones. In this way, accused persons have cheated /misled the applicant, her husband and other relatives so that applicant may not take any legal action against them, in case any complaint is made to the police. Accused persons are very clever persons and are conniving together. In this way, accused persons by telling their fake names and addresses and thereafter by changing their addresses have played fraud of crores of rupees o innocent people. Husband of the applicant had submitted complaint dated 14.12.2023 before SP Sirsa against the persons named therein. However even after expiry of six months, no action has been taken on the complaint submitted by the husband of the applicant nor the police has recorded his statement nor the accused have been summoned. As on date, no FIR has been registered against accused persons. Yesterday on 20.05.2024, applicant had gone to the office of accused persons in Chandigarh. There, the applicant came to know that to avoid police action, accused persons have changed their address. That presently they are running their office under the name and style of Nexusglide Overseas Consultant at SCO 78-79, Third Floor, Sector 17-D, Chandigarh. A copy of which is attached as Annexure 8 with the complaint. That while sitting in this office, accused persons are doing business of work visa. On seeing the applicant, accused persons intentionally went out of the office. After this, applicant came to know that accused persons have earlier also told their wrong names. Applicant* *came to know that names of accused are not Ankush, Nidhi and Mansi, whereas husband of the applicant had submitted complaint against Ankush, Nidhi and Manshi. On 20.05.2024, applicant came to know that real names of accused persons are Amanpreet, Arshpreet, Smriti, Akash and Pooja. Applicant has satisfied herself in this regard. That husband of the applicant had submitted a complaint against the accused persons on 14.12.2023. Applicant therefore request that complaint dated 14.12.2023 submitted by her husband may not be taken into consideration and action may be taken against accused persons on the basis of instant complaint dated 22.05.2024 and on the basis of the same FIR u/ss 420, 120-B, 468, 471, 406, 506 IPC be registered against the accused persons and investigation of the same be assigned to some independent agency like Economic Offence Wing, Vigilance etc., account statement of the firm of the accused be taken into possession. Accused persons had made the applicant to open an account in Indusind Bank, Chandigarh in which she had deposited Rs.1.00 lac. But after that Smriti and Pooja had obtained signatures of the applicant on blank signed cheques and retained the cheque book with them with the assurance that the same are in their safe custody and will be returned on completion of work visa formalities. However, now after repeated requests accused persons have not returned my signed cheque book. Applicant apprehends that accused persons may misuse the same and use the same in some illegal activity. One cheque of Rs.3.00 lacs of husband of the applicant drawn on Bank of Baroda is also in possession of accused persons. It is very much necessary to take all these cheques in possession of the police alongwith other blank papers which were got signed by accused persons on the pretext of getting work visa. An immediate legal action may be taken against accused persons. Note: Annexure 1 of Pg 1 to 8 attached with the complaint. Page No.1 to 10 bear signatures of the applicant. Sirsa. 22.05.2024 sd/- Neetu Mehta applicant wife of Sh. Sumit Bhandari resident of H.No.692, Sector 19, HUDA, Sirsa, Mobile No.97282-00309. Police Proceedings Today on receipt of above complaint of Neetu Mehta, above mentioned FIR u/s 420, 406, 506, 120-B IPC be registered and FIR number informed. Sd/- Rajesh, P.S. CL SRS dated 29.06.2024. Today on receipt of the above said complaint at the police station above said FIR has been registered. Copy of police file alongwith original statement being sent to ASI for further investigation. Copies of FIR shall be sent to senior officers through post."*

4. The petitioner's counsel prays for bail by imposing any stringent conditions and contends that pre-trial incarceration would cause an irreversible injustice to the petitioner and their family.

5. The State's as well as counsel for the complainant oppose bail and refers to the status report.

6. It would be appropriate to refer to the following portions of the status report dated 01.03.2025, which read as follows:

"*5. That as per the version of complainant, present* *petitioner- Smriti and co-accused Pooja had obtained the blank cheque book got signed from the complainant and retained the cheque book with them with an assurance that the same are in their safe custody and will be returned on completion of work visa formality. However during the previous enquiry, the petitioner denied for having any such cheque book with her and she did not recover any such record.*

6. That apart from above, at the time of registration of the accused firm (Hey visa Immigration) under GST Act, an application was moved by the accused Amandeep & Akashpreet and they have produced a copy of the Partnership deed dated 06.03.2023. In the said partnership deed, the present petitioner stood and signed as witness of the said partnership, specifically mentioning her Unique ID no.9103-5217-8431 and this very unique ID is mentioned in the present petition.

7. That the petitioner involved as promoter/host of the said Immigration business. Petitioner in order to get the unwanted relief, has also manipulated the record of marriage and has falsely shown herself as married to Akashdeep only on 14.02.2024 (as stated in para no.9 of petition), while the fact remains that as per the account status/ opening form of M/s Hey Visa Immigration, accused Akashpreet has shown his status as 'Married' and name of the present petitioner is very much reflected as wife of Akashpreet. It is also submitted that petitioner & her husband also forged a Offer letter dated 08.05.2023 (shown to have been issued by Rob French, Principal) and same was handed over to the complainant on 11.5.2023 and obtained the signature of the complainant. However on enquiry said letter is found forged and fabricated, as the same is not received from any Institution in Australia."

REASONING:

7. Petitioner is a woman and had a limited role in the fraud played upon the complainant. Pre-trial incarceration should not be a replica of post-conviction sentencing. 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 it for the stage of anticipatory bail. An analysis of the above does not justify custodial interrogation or pre-trial incarceration.

8. The investigation indicates that the petitioner is not the main accused, so the petitioner's bail shall not be treated as a precedent for granting bail to the other co-accused with a higher role.

9. Given the above, the penal provisions invoked coupled with the primafacie analysis of the nature of allegations, petitioner is a woman and the other factors peculiar to this case, there would be no justifiability for custodial interrogation or the pre-trial incarceration at this stage. Without commenting on the case's merits, in the facts and circumstances peculiar to this case, and for the reasons mentioned above, the petitioner makes a case for bail.

10. Given above, provided the petitioner is not required in any other case, the petitioner shall be released on anticipatory bail in the FIR captioned above subject to furnishing bonds to the satisfaction of the Arresting Officer, and if the matter is before a Court, then the concerned Court and due to unavailability before any nearest Ilaqa Magistrate/duty Magistrate. Before accepting the surety, the concerned Officer/Court must be satisfied that if the accused fails to appear, such surety can produce the accused.

11. While furnishing a personal bond, the petitioner shall mention the following personal identification details:

1.	AADHAR number	
2.	Passport number (If available) and when the attesting officer/court considers it appropriate or considers the accused a flight risk.	
3.	Mobile number (If available)	
4.	E-Mail id (If available)	

12. This order is subject to the petitioner's complying with the following terms.

13. *The petitioner is directed to join the investigation within seven days of uploading this order on the official webpage of the High Court of Punjab and Haryana and as and when called by the Investigator*. The petitioner shall be in deemed custody for Section 27 of the Indian Evidence Act, 1872/ Section 23 of BSA, 2023. 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.

14. In case the Investigator/Officer-In-Charge of the concerned Police Station arraigns another section of any penal offense in this FIR, and if the new section prescribes a maximum sentence that is not greater than the sections mentioned above, then this bail order shall be deemed to have also been passed for the newly added section(s). However, suppose the newly inserted sections prescribe a sentence exceeding the maximum sentence prescribed in the sections mentioned above; then, in that case, the Investigator/Officer-In-Charge shall give the petitioner notice of a minimum of seven days, providing an opportunity to avail the remedies available in law.

15. ***This bail is conditional, and the foundational condition is that if the petitioner indulges in any non-bailable offense, the State shall file an application for cancellation of this bail before the Sessions Court, which shall be at liberty to cancel this bail.***

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

17. A certified copy of this order would not be needed for furnishing bonds, and any Advocate for the Petitioner can download this order along with case status from the official web page of this Court and attest it to be a true copy. If the attesting officer wants to verify its authenticity, such an officer can also verify its authenticity and may download and use the downloaded copy for attesting bonds.

18. **Petition allowed** in terms mentioned above. All pending applications, if any, stand disposed of.

(ANOOP CHITKARA)
JUDGE

27.03.2025
Jyoti Sharma

Whether speaking/reasoned: Yes
Whether reportable: No.