

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

203

CRM-M-44796-2024
Date of Decision : **January 13, 2025**

GURINDER SINGH BATTH

.....Petitioner

VERSUS

STATE OF PUNJAB

.....Respondent

CORAM: HON'BLE MR. JUSTICE KULDEEP TIWARI

Present : Mr. Anil Shukla, Advocate
for the petitioner.

Mr. Pardeep Bajaj, DAG, Punjab.

KULDEEP TIWARI, J. (Oral)

1. Through the instant 2nd petition filed under Section 439 of Cr.P.C., the petitioner prays for grant of regular bail in case FIR No.104 dated 8.9.2023, Under Sections 406, 420, 465, 467, 468, 471, 120-B IPC and Sections 24-25 of the Immigration Act, registered at Police Station Phase-11, District SAS Nagar, as the first one was having been dismissed as withdrawn vide order dated 4.7.2024 with liberty to approach the learned trial Court concerned seeking the relief of regular bail by filing application under Section 437(6) of IPC. Thereupon, the petitioner approached the learned trial Court concerned, but remained unsuccessful in the said attempt and then filed his regular bail application before the learned Additional Sessions Judge concerned, which met the same fate and was also dismissed

vide order dated 2.9.2024, which propelled the petitioner to file the instant petition seeking the relief (supra).

2. The instant FIR has been registered against the petitioner on a statement made by Rajinder Kaur wife of Baldev Singh to the effect that the petitioner alongwith 3 other co-accused have duped her on the pretext of sending her son Canada for Rs.9,90,000/-. The relevant extract of the FIR reads as under:-

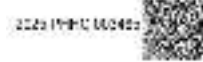
“Stated that I am a resident of the abovesaid address and a house wife. My son Gurpreet Singh had to go abroad to Canada, so I saw an ad of English Guru's office on Facebook, which was dealing in finance → and sending persons abroad, so I called their office and then I had the conversation with person named Dilpreet Singh, who called us to their office at English Guru, second floor, SCF No.31, Phase-10, District- SAS Nagar. Then in January 2023 I went to the office English Guru, second floor, SCF No. 31, Phase-10, District- SAS Nagar along with my son Gurpreet Singh Sandhu where I met Dilpreet Singh, Gurwinder Singh Batth, Gurpreet Singh and Hardeep Singh with whom I had a talk and they assured me to send my son Gurpreet Singh Sandhu to Canada on study Visa and told the total expenditure of Rs. 28 lakhs and who told us that we will have to deposit Rs. 6500/- for the offer center of your son Gurpreet Singh Sandhu, so as per their request we paid Rs. 6500/- to Gurpreet Singh through Google pay. Then they asked us to deposit Rs. 1,50,000/- to start the processing of file and as per their request, I deposited Rs. 1,50,000/- through RTGS from my Axis Bank account. Then they asked us to get the medical to our son Gurpreet Singh Sandhu and as per their asking, my son Gurpreet Singh Sandhu got his medical done at Apollo Hospital, Ludhiana, where he deposited the medical fees of Rs. 6500/- in cash. Thereafter we came to their office on their asking where they told us that you will have to deposit the fees of Rs. 20,000/- then my son Gurpreet Singh Sandhu transferred Rs.20,000 from his Axis Bank account. After that as per the request of Gurpreet Singh, we transferred Rs.20,000/-. After that demand of Rs. 7,62,000/- was raised by Gurinder Singh Batth, Gurpreet Singh, Dilpreet Singh and Hardeep Singh from us for submitting the file to the embassy and when we

started doing RTGS of Rs.7,62,000/- then all these people asked not to do RTGS of this amount, you pay it in cash, on which we gave Rs.7,62,000/- to Dilpreet Singh, Gurinder Singh Batth, Gurpreet Singh and Hardeep Singh from whom we asked for receipt, who told us that your work will be done soon, have faith in us and after preparing the receipt, these people kept it with themselves and did not give it to us despite our repeated requests. Then they took original passport of my son Gurpreet Singh Sandhu, three pronotes and 9 blank cheques. which included 3 cheques of my Axis Bank, 3 cheques of my husband Baldev Singh's PNB Bank and 3 cheques of my son Gurpreet Singh Sandhu's Axis Bank 2/2 blank signed affidavits of mine and my husband Baldev Singh and other documents. After that they asked from file charges. on which my son Gurpreet Singh Sandhu transferred Rs. 10,000/- on dated 06/03/2023 from his Axis bank account and on different dates ie on dated 09-03-2023 Rs. 10,000, dated 16- 03-2023 Rs. 5000/-, dated 20-03-2023 Rs. 20,000/-. All these persons started telling us that your file will be submitted and to make enquiry within 2-4 months, We had taken this amount on interest from commission agent of our area to send our son Gurpreet Singh Sandhu to Canada on study visa and was given to the abovesaid persons. In order to keep us in confidence, Dilpreet Singh had given me a a offer letter by calling us in the office which was got-verified at our own level which is fake. Then we contacted their phone number to inquire regarding our son's study visa but till now these persons have been putting off the matter on one pretext or other. Then finally after getting fed up, I said that if you cannot get my son Gurpreet Singh Sandhu's study visa, then return my due amount of Rs. 9,90,000/- along with original passport and other documents which were not given to me. Now after repeated the calls, they were not picking up the phone nor were giving any answer. Gurvinder Singh Batth, Hardeep Singh, Dilpreet Singh and Gurpreet Singh Owner of English Guru, second floor, SCF No. 31, Phase-10 District-SAS Nagar neither sent my son Gurpreet Singh Sandhu to Canada nor return our money. The abovesaid persons cheated us of Rs. 9,90,000/- on the promise of sending my son Gurpreet Singh Sandhu to Canada on foreign study visa. I have also come to know that cheating of Rs. 3,16,500/- was committed on the pretext of sending Kashish son of Sabnam w/o Manoj Kumar, resident of Garnala, Police station Panjokhara Sahib, District Ambala, Haryana to abroad Canada and cheating of Rs.6,95,000/ was committing on the pretext of sending

Jinder Kaur w/o Satwant Singh s/o of Harjeet Singh, resident of village Jandali, Police station Payal, District Khana, Ludhiana to Canada on a foreign study visa. These abovesaid persons committed cheating of Rs.20,01,500/- with my son Gurpreet Singh Sandhu, Satwant Singh's wife Jinder Kaur and Sabnam's son Kashish on the pretext of sending them to Canada on foreign study visa. Necessary legal action be taken against Dilpreet Singh, Gurvinder Singh Batth, Hardeep Singh and Gurpreet Singh Owner of the English Guru, second floor, SCF No. 31, Phase-10, District-SAS Nagar.”

3. During the course of investigation, two more complainants, namely, Sabnam and Satwant Singh have surfaced. They also alleged that the petitioner alongwith other co-accused has duped them in a similar fashion for an amount of Rs.3,16,500/- and Rs.6,6,95,000/- respectively.

4. Learned counsel for the petitioner in the asking for the relief (supra) *inter-alia* submits that the petitioner is merely an employee working in English Guru firm, which is owned by Gurpreet Singh son of Kaka Singh and for that he placed reliance upon Annexure P-1, which reflects that the licence of the firm is in the name of Gurpreet Singh. He further submits that the petitioner has been implicated in 15 other cases, by the same IO against whom he has already got registered an FIR No.07 dated 26.4.2024 under Section 7 of the Prevention of Corruption Act, registered at Police Station Vigilance Bureau, Punjab, Mohali. He also submits that the same IO has submitted the final report in the instant case as well. He also submits that out of total 15 cases, he has been granted bail in 7 cases and in the instant case, he has already suffered incarceration of more than 1 year and 2 months as on today and the offences under which the petitioner is facing trial, are triable by the Court of Judicial Magistrate 1st Class.



5. The submissions made by the learned counsel for the petitioner has been vociferously opposed by the learned State counsel and he has also placed on record the custody certificate *qua* the petitioner today in the Court, the same is taken on record. He further submits that the petitioner is involved in 14 other cases of similar nature, where number of people have been duped and he is not only an employee, rather has actively participated with the other co-accused as well as the owner of the firm i.e. Gurpreet Singh, therefore, he cannot take shelter behind Gurpreet Singh to submit that he is merely an employee. He also drew the attention of this Court towards the contents of the FIR, where his role is clearly prescribed.

6. This Court has considered the rival submissions made by both the learned counsel for the parties concerned and has perused the entire record.

7. It is not under dispute that the offences under which the petitioner is facing trial, are triable by the Court of Judicial Magistrate 1st Class and the petitioner has suffered incarceration of precisely about 1 year and 3 months as on today and the prosecution has only examined 3 witnesses out of total 20 cited witnesses till date and one of the main complainant i.e. Rajinder Kaur also examined. Therefore, without touching the merits of the instant case and solely on account of the days of incarceration suffered by the petitioner and the fact that all the offences are triable by the Court of Judicial Magistrate 1st Class and the stage of the trial, which is at initial stage,

this Court can safely conclude that the conclusion of the trial would take long time. Not only this the learned trial Court concerned has not given any sufficient reasons while declining the bail under Section 437(6) IPC.

8. In view of the above recorded facts and circumstances, this Court deems it fit and appropriate to extend the benefit of regular bail to the petitioner. Therefore, the present petition is **allowed**.

9. The petitioner is ordered to be released on bail on furnishing of bail bonds and surety bonds to the satisfaction of concerned Chief Judicial Magistrate/trial Court/Duty Magistrate.

10. However, anything observed here-in-above shall have no effect on the merits of the case and is meant for deciding the present petition only.

January 13, 2025
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(KULDEEP TIWARI)
JUDGE

Whether speaking/reasoned. : Yes/No
Whether Reportable. : Yes/No