IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

112 **CRM-M-50068-2025**

Date of decision: 08.09.2025

Gulshan Kumar Tyagi ....Petitioner

V/s

State of Punjab ....Respondent

CORAM: HON'BLE MR. JUSTICE SUMEET GOEL

Present: Mr. Sanjeev Kumar Arya, Advocate for the petitioner.

Mr. Gurpartap S. Bhullar, AAG Punjab.

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SUMEET GOEL, J. (Oral)

1. Present petition has been filed on behalf of the petitioner seeking grant of anticipatory/pre-arrest bail under Sections 438 of Cr.P.C. (Section 482 of BNSS, 2023) in FIR No.22 dated 04.07.2025 registered for offences punishable under Sections 406 and 420 of the IPC and Section 24 of Immigration Act at Police Station NRI, Mohali.

2. The gravamen of the FIR pertains to defrauding a person namely Seerat D/o Vali Mohammad resident of House No.701/36 Phase 1, Bapu Dham Colony, Sector 26 Chandigarh. As per the FIR, which was registered on the statement of Rukhsar (sister of complainant) and Vajid (brother of the complainant), who alleged that their sister namely Seerat approached Mr. Gulshan Tyagi of Flyout Immigration, SCO 73-74-75, 2nd Floor, Sector 17, Chandigarh and ABS Consultants Cabin 24, Ground Gloor, TDI Business Centre TDI City, Sector 118, SAS Nagar, Mohali for the purpose of Permanent Resident filling for Canada. Seerat was working as an education counselor at FA Educations, SCF 44, 2nd Floor, Phase-7, Mohali and was introduced to Mr. Gulshan Tyagi (petitioner herein) by the owner of FA Educations namely Abhinav Dogra, as he is a close relative of the

accused Gulshan Tyagi (petitioner herein) and hence a trusted person as well. It was further alleged that accused – Gulshan Tyagi (petitioner herein) stated that he is the owner of Flyout immigration and deals with work permit options for clients to both Seerat and Abhinav as well. Furthermore, after the initial assessment on the profile, a cash payment to the tune of Rs.1.2 lacs was paid on 12.04.2024 to initiate the process. After all approvals, a written contract was executed between the sister of the complainant namely Seerat and the accused Mr. Gulshan Tyagi (petitioner herein) on 04.06.2024 as per terms and conditions mentioned in the said contract. The contract was signed in the presence of Mr. Abhinav Dogra of FA Educations, Phase-7, Mohali as Seerat was an employee of that company. The entire commitment to complete the visa process in about 4/6 months was promised at the beginning and in case that does not happen, 100% money will be refunded which has also been claimed on numerous occasions and was also amended in the original contract by Mr. Gulshan Tyagi. It was further alleged that the accused Mr. Gulshan Tyagi was supposed to do the work of Permanent Residence with genuine job in Nova Scotia or Alberta in Canada for Seerat and in this regard, she had paid an amount of Rs.8.00 lacs vide cheque number 061462 from account number 923010057826007 and another cheque of Rs.90,000/- via cheque number 923010057826007, both from Axis Bank, Sector 19-D, Chandigarh branch on 06.06.2024. Thereafter, accused Mr. Gulshan Tyagi came to the office of FA Educations as he is known to Mr. Abhinav Dogra at SCF 44, IInd Floor, Phase-7, Mohali to sign the contract with Seerat and a video in this regard was also made and the same is available as a proof. It was further alleged that a total sum of Rs.10.00 lacs was paid in 03 installments to the accused Mr. Gulshan Tyagi.

Despite repeated assurances, neither the genuine documents nor any progress was made. On 30.09.2024, a refund contract was signed but the accused Mr. Gulshan Tyagi (petitioner herein) refused to return the money and later issued threats. It was further alleged that later the accused Mr. Gulshan Tyagi had even closed his office which operates without a valid immigration license and has deliberately cheated the sister of the complainant namely Seerat by misrepresentation and false promises. On the basis of the aforesaid complaint, instant FIR has been registered against the petitioner alongwith other accused and investigation ensued.

3. Learned counsel for the petitioner has iterated that the petitioner is innocent and has been falsely implicated in the present case. 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. Furthermore, the petitioner has no connection whatsoever with the alleged offence. It has been further iterated that the petitioner has never projected himself as the owner of any immigration consultancy. Rather, the petitioner merely introduced the complainant to one Simrajit Bal @ Gurwinder Singh, the owner of Flyout Immigration, at the request of Mr. Abhinav Dogra, Proprietor of FA Education, Mohali. It has been further iterated that the substantial payments were made directly to Flyout Immigration or its owner except for Rs.90,000/- which was transferred to the account of the petitioner against his Will at the insistence of Mr. Abhinav Dogra. It has been further submitted that the petitioner has been unnecessarily dragged into the instant case as nothing has to be recovered from him and the dispute, if any, lies between the complainant and the actual immigration consultancy. According to learned counsel, the petitioner is

neither a travel agent nor engaged in any business of facilitating overseas employment and hence the allegations levelled against him are entirely false, vague and baseless. It has been further argued that there is no need for custodial interrogation of the petitioner as nothing incriminating remains to be recovered from him. Moreover, there is no likelihood of the petitioner absconding from the process of justice or tampering with the prosecution evidence in case he is enlarged on pre-arrest bail. On strength of these submissions, the grant of anticipatory bail is entreated for.

4. *Per contra*, learned State counsel (on the strength of advance notice) has opposed the grant of anticipatory bail to the petitioner by arguing that the offence committed by the petitioner is serious in nature. According to learned State counsel, the FIR and record reveal the active participation of the petitioner in inducing the complainant to part with huge amount i.e. Rs.10.00 lacs on the promise of securing permanent residency in Canada with a genuine job offer. It was further contended that the magnitude of the offence reflects not only a blatant abuse of trust but also a calculated exploitation of the vulnerability and aspirations of the complainant. According to learned State counsel, the offence committed by the petitioner caused substantial financial and emotional distress to the complainant and his family. Considering the seriousness of the allegations, the custodial interrogation of the petitioner may be necessary to unearth the broader conspiracy and recover the ill-gotten money. Granting bail at this stage may set a wrong precedent in cases involving immigration fraud. Furthermore, in case the petitioner is granted the concession of pre-arrest bail, at this stage, it may impede the ongoing investigation and obstruct the recovery 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 allegations in the FIR cannot be brushed aside as vague or baseless. The complainant was induced to part with a substantial amount on the assurance of the petitioner. The FIR *ibid* shows that the petitioner has signed and amended the documents relating to the immigration contract on the promise of securing Permanent Residency in Canada with a genuine job offer to the complainant. Furthermore, the petitioner was present at the time of execution of the contract, participated in amendments of the contract, received money directly into his account and repeatedly assured/apprise the complainant of the progress of her case. Even after failure to honour the contract, the petitioner signed a refund contract but never refunded the amount in question. The allegations in the FIR pertain to cheating and criminal breach of trust of sum of Rs.10.00 lacs which has was obtained under the pretext of providing immigration services to the complainant. Furthermore, the complainant has specifically alleged that the petitioner played an active role in the transactions, signed the documents, gave repeated assurances and promised refund of the money in case of non-fulfillment of the contract as alleged.

7. The plea of the petitioner that he was only an introducer cannot be accepted, at this stage, considering his involvement at different/crucial stages. *Prima facie,* there appears to be *mens rea* and dishonest intention

since the inception of the contract. The offence in question does not merely involve financial deceit but strikes at the very fabric of social trust, involving immigration fraud, which are not only grave in nature but also have far-reaching consequences on public. The allegations, if found to be true, reflect a deliberate attempt to mislead and defraud the complainant thereby not only causing wrongful loss to her but also eroding the public trust in immigration process. Such offences necessitate a strong and principled judicial response to prevent their recurrence.

8. 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 the legal migration. 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.

9. 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 the complainant of a substantial amount under the false pretext of facilitating the legal migration which caused severe financial and emotional distress.

10. 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 interests. 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 be established 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."*

11. 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 *milieu* of the case in hand. Moreover, the custodial interrogation of the petitioner may be necessary for an effective investigation & to unravel the truth. Accordingly, the petition is devoid of merits and is hereby dismissed.

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

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

(SUMEET GOEL)
JUDGE

September 08, 2025
Ajay

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