IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

109 **CRM-M-49945-2025**

Date of decision: 08.09.2025

Gulshan Kumar Tyagi

....Petitioner

V/s

State of U.T. Chandigarh

....Respondent

CORAM: HON'BLE MR. JUSTICE SUMEET GOEL

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

Mr. Alankrit Bhardwaj, Add. P.P. U.T. Chandigarh.

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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.116 dated 26.07.2025 registered for offences punishable under Sections 406 and 420 of the IPC and Section 24 of Immigration Act at Police Station Central Sector 17, Chandigarh.

2. The gravamen of the FIR pertains to defrauding a person namely Abhinav Dogra, S/o Sh. Ajay Dogra, resident of House No. 5, Guru Gobind Singh Nagar, Dhakoli, Zirakpur, District SAS Nagar, Mohali, and proprietor of FA Education Centre, Mohali, who alleged that Mr. Gulshan Tyagi (petitioner herein) falsely represented himself as a licensed immigration consultant and assured the complainant that he would arrange work permits for Italy and Hungary. It was further alleged that between January 2024 and August 2024, the complainant had paid Mr. Gulshan Tyagi (petitioner herein), a total sum of ₹5,50,000 (via UPI and cash). Despite repeated assurances and written confirmations (including WhatsApp chats), no work permit or visa was provided by the accused Mr. Gulshan

Tyagi. Since September 2024, the accused Mr. Gulshan Tyagi has neither refunded the money nor delivered the promised services to the petitioner. The complainant alleged that instead, he has been avoiding the calls of the complainant and giving him baseless excuses. It has been further alleged that the complainant came to know that the accused Mr. Gulshan Tyagi Tyagi does not hold any valid immigration or manpower license and continues to operate illegally. The complainant has further alleged that the accused Mr. Gulshan Tyagi (petitioner herein) had already two complaints pending against him i.e. one by Ms. Seerat (₹10 lakh fraud) and another by Mr. Paras Chhabra (₹17 lakh fraud) which goes to show his fraudulent behavior. On the basis of the aforesaid complaint, instant FIR has been registered against the petitioner 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 has further iterated that the allegations in the FIR are false, baseless and concocted. It has been further submitted that the petitioner has never projected himself as the owner or partner of any immigration consultancy. Furthermore, the money allegedly received from the complainant was duly handed over to other immigration consultants for processing and the petitioner has not retained any part of the said amount. According to learned counsel, in fact, the complainant and one Mr. Ranjeev Singh Thakur, who are engaged in immigration related work without any valid license and the petitioner has been wrongly implicated. It has been submitted that the earlier a complaint by one Mr. Paras Chhabra was already closed by the SP Office, Mohali, after due inquiry, which shows that allegations against the petitioner are unfounded. 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 counsel for the U.T. Chandigarh (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. Learned counsel has further iterated that the FIR contains detailed and specific allegations supported by UPI transaction records, cash receipts, and WhatsApp chats whereby the petitioner induced the complainant to part with a total sum of ₹5.50 lakhs. According to learned State counsel, other similar complaints have been filed against the petitioner indicating that the matter is not an isolated dispute but a part of a larger fraudulent modus operandi. Considering the seriousness of the allegations, the custodial interrogation of the petitioner is 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 contained 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 has been registered on the specific allegations which were duly supported by the documentary evidence of payments made by the complainant. Furthermore, the contention that the petitioner has not retained any money is a matter of defence and cannot be accepted at the stage of considering the plea for grant of anticipatory bail. The petitioner admittedly does not deal in any immigration consultancy and neither posses any license yet he was involved in collecting money on the pretext of providing work permits abroad. *Prima facie*, in the considered opinion of this Court, this amounts to unauthorized immigration activity and cheating. The fact that other similar complaints have been filed against the petitioner indicates that the matter is not an isolated dispute but a part of a larger fraudulent *modus operandi*.

7. The contention regarding closure of one complaint does not absolve the petitioner of liability in the present case which rests on independent facts and evidence. Given the nature of allegations, the economic magnitude of the fraud coupled with the stand of the State for custodial interrogation to unravel the money trail, the petitioner does not deserve the concession of anticipatory bail. *Prima facie,* there appears to be *mens rea* and dishonest intention since inception. 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 him 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