HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

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CRM-M-61626-2024
Date of Decision: 27.01.2025

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Paramvir Singh ... Petitioner

VS.

State of Punjab & Ors. ... Respondents

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CORAM: HON'BLE MR.JUSTICE SANDEEP MOUDGIL

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Present: Mr. Shailender Singh Momi, Advocate for the petitioner

Mr. Jaspal Singh Guru, AAG Punjab

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Sandeep Moudgil, J. (Oral)

(1). This petition under Section 528 of the Bharatiya Nagarik Suraksha Sanhita, 2023 (BNSS) has been filed by the petitioner, *inter alia*, with the following prayers:-

- To quash/set-aside the FIR No. 105 dated 02.10.2024 U/s. 420, 120-B IPC and Section 24 of Immigration Act, registered at Police Station Jodhewal, District Police Commissionerate (Annexure P-29) and all consequential proceedings arising therefrom qua the petitioner;
- To direct respondents No.3 & 4 not to implicate the petitioner in such series of connected matters and if any such further transaction comes to light, the same may be considered as a supplementary case/report in the principal/first FIR No. 265 dated 24.08.2023 U/s. 406, 420 IPC, registered at Police Station Rajpura, District Patiala, Punjab (Annexure P-1);
- To direct consolidation and clubbing of all the FIRs (Annexure P-1, P-26, P-27 & P-29) as they are closely interlinked and interconnected and to supervise and monitor the investigation carried out qua the petitioner

in view of the *ratio* laid down by the Supreme Court in ***Babu Bhai Jamna Das Patel Vs. State of Gujarat (2009) 9 SCC 610***;

- To direct the release of the petitioner on bail relying upon the *ratio decendi* laid down in ***Arnab Manoranjan Goswami Vs. State of Maharashtra, (2021) 2 SCC 427***;

(2). Learned counsel for the petitioner contends that the petitioner is an unmarried boy and has been falsely implicated in various FIRs arising out of the same cause of action. He submits that the brother of the petitioner, Manvir Singh is the sole proprietor of M/s GB Immigration Consultant dealing in Visa and sending the aspirants abroad and as such, on the inducement of Sarabjit Singh Sandhu and his wife, brother of the petitioner, Manvir Singh started doing immigration business with them and as such developed family relations with the petitioner and the complainant Manjot Saini. It is averred that the complainant and Manvir Singh worked together, however, the said Sarabjit Singh Sandhu and his wife cheated the petitioner and the complainant and other 60 persons.

(3). It is argued that Sarabjit Singh Sandhu was arrested in FIR No. 280 dated 22.09.2023 registered U/s. 406, 419, 420, 467, 468, 471, 474 IPC and Section 25/54/59 of Arms Act and during investigation, a number of fake VISAs, Stickers and permanent Residency Cards were recovered and he disclosed that he transferred Rs. 7-8 Crores in the account of his companion namely Mortin Christian r/o Karnataka and Vishal r/o Delhi and Nitin DevLal r/o Uttrakhand from whom he used to get prepare fake Stickers and VISAs with the help of Rahul Kumar and indeed Sarabjit Singh Sandhu has been involved in as many as 14 FIR cases of similar nature.

(4). Further, it is has been pleaded that the matter needs to be probed thoroughly and requires impartial investigation into numerous FIRs registered against the petitioner and that apart, the scattered nature of the FIRs and complaints across various courts and tribunals, have led to significant inefficiencies and prolonged delays in the resolution of the dispute and therefore all the FIRs need to be clubbed into a single proceeding to facilitate cohesive investigation and streamlining of judicial process which will indeed be time saving and cost effective. Reliance has been placed on ***Amitbhai Anilchandra Shah v. CBI (2013) 6 SCC 348***, ***Ramlal Narang vs. CBI (1979) 2 SCC 322*** and ***Nirmal Singh Kehlon vs. State of Punjab, (2009) 1 SCC 441***, to urge that where there is large conspiracy and a series of act and offences constitute a part of the same transaction, there should be one single FIR rather than multiple FIRs.

(5). Notice of motion.

(6). On the asking of the Court, Mr. Jaspal Singh Guru, AAG Punjab accepts notice. He opposed the pleas raised in the petition contending that the petitioner has made different prayers in the single petition whereby he has sought quashing of the FIR and simultaneously prayed that all the criminal prosecutions lodged against him be tagged/clubbed together besides a prayer for grant of bail for which the petitioner is required to invoke jurisdiction of this Court under Section 483 of the Bharatiya Nagarik Suraksha Sanhita, 2023 (BNSS). That apart, since the petitioner has duped and has been found involved in the conspiracy of fake immigration business and cheating the innocent students and other aspirants at different places in the Punjab, as such, his prayer for clubbing of the FIR deserves to be rejected.

(7). Heard learned counsel for the parties.

(8). A total of 3 FIRs are lodged against the petitioner and in one FIR, the petitioner is the complainant. In FIR No.169 dated 01.09.2024 (Annexure P26) under Section 406/420 IPC at PS Rajpura lodged by complainant Gurmit Singh in relation to committing fraud worth Rs.30 lakhs on the pretext of sending his son abroad and the allegations are that on the asking of the petitioner, the complainant deposited the said amount of Rs.30 lakhs.

(9). In FIR No.171 dated 03.09.2024 (Annexure P27), under Section 406/420 IPC at PS Rajpura, the complainant-Meharbaan Singh alleged the petitioner and his brother duped him of Rs.45 lakhs and issued forged Visa and green card. Likewise, in FIR No.105 dated 02.10.2024 u/S 420/120-B IPC and Section 24 of Immigration Act, at PS Jodhewal, the complainant Manjot Saini with similar allegation of duping Rs.25 lakhs on the pretext of sending abroad.

(10). In the present FIR in question i.e. FIR No.265 dated 24.08.2023 lodged by Sukhjeet Singh which has been termed to be main FIR, wherein there are allegations against Manvir Singh (brother of the petitioner) of cheating and duping many other persons on the pretext of sending broad and arranging forged visa. It is in this FIR, the petitioner moved an application before the respondent No.5 for conducting fair and impartial investigation as the petitioner himself is alleged to be a victim and was duped by Sarabjit Singh and his wife to the tune of Rs.11 crores and during investigation, the petitioner statedly was found to be innocent on the basis of bank transactions placed on record as Annexure P2.

(11). ***State of Andhra Pradesh v Cheemalapati Ganeswara Rao, AIR 1963 SC 1850***, was a case where the accused withdrew huge amounts from different treasuries at different time span between 1990-96 by submitting fake allotment letters and withdrawal at different places. The Supreme Court pondered over the issue whether the proximity of time, place, motive and action of multiple offences committed by an accused amounts to be considered as 'single conspiracy' and held as under:-

> *"There was no continuity of action in the cases at hand, and there was no proximity of time, place, money etc. …It may be possible that modus operandi of the accused might have been the same for withdrawing the money from the government treasuries under fake allotment letters but the withdrawal was made apparently at different places and at different point of time. Same motive will not prove that such conspiracies are a part of even bigger conspiracies.'*

(12). In ***K. Manoj Reddy v. Commissioner of Police, 2007 SCC OnLine AP 963,*** which revolved around the legal implications of separate FIRs filed against the accused therein for cheating multiple investors since the accused-petitioner had accepted initial deposits and subsequent installments from various investors but failed to fulfill contractual obligations by not registering plots in their names which led to registration of multiple FIRs against him for cheating.

(13). In its quest to answer the issue as to whether separate FIRs registered against the accused person for cheating are legally tenable, the High Court of Andhra Pradesh at Hyderabad, held that "*Where financial scams have been committed in the course of selling the plots, all the particulars i.e., the date of purchase, mode of payment and the customers, will be different and distinct.."* and *"...that each and every written complaint* *of a subscriber constitutes an offence".* The relevant extract of the said judgment reads as under:-

> *"**12.** In a case of this nature where financial scams have been committed in the course of selling the plots, all the particulars i.e., the date of purchase, mode of payment and the customers, will be different and distinct. Therefore, I am of the opinion that each and every written complaint of a subscriber constitutes an offence.*
>
> ***13.** Under Section 219 of Code of Criminal Procedure, when a person is accused of more offences than one of the same kind committed within the space of twelve months from the first to the last of such offences, whether in respect of the same person or not, he may be charged with, and tried at one trial for, any number of them not exceeding three.*
>
> ***14.** Therefore, after completing investigation and after filing charge-sheet, three cases can be clubbed together and tried under Section 219 of the Criminal Procedure Code, but it does not mean that all the crimes in question, can be construed as one offence by registering one comprehensive crime.*
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> ***15.** The learned counsel appearing for the petitioner submits that several cases have been registered and as and when he is getting bail, he is being arrested in other offences and, therefore, it amounts to deprivation of his rights guaranteed under Articles 14 and 21 of the Constitution of India.*
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> ***16.** I am unable to accept the said contention as each and every crime constitutes an offence, though the nature of the crime is similar in nature. Article 21 of the Constitution of India postulates that no person shall be deprived of his personal liberty except according to the procedure established by law.*
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> ***17.** In the above facts and circumstances of the case, I am of the opinion that each and every complaint of a subscriber constitutes an offence and as such, it cannot be said that there is infraction or infringement of right guaranteed under Article 21 of the Constitution of India."*

(14). It thus culls out that separate trials for each FIR are justified when different offences arise from a continuing conspiracy, as per Section 212(2) of the CrPC. At this stage, it would be apposite to refer to Section 212 CrPC which is reproduced as under:-

"212. Particulars as to time, place and person.

(1) The charge shall contain such particulars as to the time and place of the alleged offence, and the person (if any) against whom, or the thing (if any) in respect of which it was committed, as are reasonably sufficient to give the accused notice of the matter with which he is charged.

(2) When the accused is charged with criminal breach of trust or dishonest misappropriation of money or other movable property, it shall be sufficient to specify the gross sum or, as the case may be, describe the movable property in respect of which the offence is alleged to have been committed, without specifying particular items or exact dates, and the charge so framed shall be deemed to be a charge of one offence within the meaning of section 219:

Provided that the time included between the first and last of such dates shall not exceed one year."

(15). A reading of Section 212 CrPC would show that the charge shall contain such particulars as to the time and place of the alleged offence, and the person, if any, against whom, or the thing in respect of which, it was committed, as are reasonably sufficient to give the accused notice of the matter with which he is charged. The object of this provision is to ensure that reasonably sufficient notice and information is given to the accused with regard to matter he is charged.

(16). The existence of a conspiracy that results in various offences allows for distinct punishments for separate acts committed over time, thus negating claims of double jeopardy, for, it is within the judicial discretion to decide on the joint or separate trials based on the facts and circumstances of each case.

(17). In the instant case, each offence is a distinct one, and cannot be regarded as constituting a single series of acts/transaction following the principle that financial scams involving multiple victims require careful consideration of the facts of the each case to uphold the rights of the accused and the integrity of the judicial process. The real test to determine whether multiple offences form the same transaction, or not, is whether there was continuity in action.

(18). In a case of inducement, allurement and cheating of large number of abroad goers in pursuance to a criminal conspiracy, each deposit by an aspirant and/or their family members constitutes a separate and individual transaction. All such transactions cannot be amalgamated and clubbed into a single FIR by showing it to be one as has been tried to be projected by the petitioner in the present case. The contents of the FIRs lodged against the petitioner or his brother, prima facie, shows that they have duped many innocent persons and students of their hard earned money. Even though the place of such occurrence may be said to be same and the person against whom number of complainants have lodged FIRs is also the same, nevertheless, each of such prosecution demands separate investigation and trial as the monetary transactions are different and the cause of action also arose individually against the petitioner. Therefore, any clubbing of the FIRs would mean that a special jurisdiction would be conferred on one of the Courts where the FIRs are to be clubbed to try the offenses.

(19). In view of the above discussion, there is no valid ground for this Court to accede to the prayers made by the petitioner.

(20). Dismissed.

27.01.2025
V.Vishal

(Sandeep Moudgil)
Judge

1. Whether speaking/reasoned? ***Yes/No***
2. Whether reportable? *Yes/No*