IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRM-M-64784-2024 (O&M)
Date of Decision: 18.02.2025

CHETAN BHALLA ALIAS CHETAN ALIAS BHALLA

.. Petitioner

Vs.

STATE OF HARYANA

..Respondent

CORAM: HON'BLE MR. JUSTICE SUMEET GOEL

Present: Mr. L.K. Gollen, Advocate for the petitioner.

Mr. Parveen Kumar Aggarwal, DAG, Haryana.

...

SUMEET GOEL, J. (Oral)

1. The instant petition has been filed on 16.12.2024 under Section 439 of Cr.P.C., 1973 for grant of regular bail.

As per the judgment rendered by this Court titled '***Abhishek Jain Vs. State of U.T. Chandigarh and another' (CRM-M-31808-2024) 2024PHHC085784***, the instant petition is not maintainable under Section 439 of Cr.P.C., 1973. However, keeping in view the entirety of facts and circumstances of the case especially that the instant petition pertains to regular bail, the instant petition is directed to be considered as a petition under Section 483 of Bharatiya Nagarik Suraksha Sanhita, 2023.

Present petition has been filed for grant of regular bail to the petitioner in case bearing FIR No.108 dated 15.06.2024, registered for the offences punishable under Sections 406, 420, 467, 468, 471, 506 and 34 of IPC at Police Station Garhi, District Jind.

2. The case set up in the FIR in question (as set out by the petitioner in the present petition) is as follows:-

> *First Information contents: To, Incharge Police Post Dhamtan Sahib. Complaint against the accused for committing cheating, making fake visa and fake air ticket and threatening to kill and not depositing money in the account despite giving post dated cheque after entering into compromise. Sir, it is requested that I am Jagbir son of Shri Rameshwar resident Dhamtan Sahib, Tehsil Narwana, Distrier Jind. The accused persons had taken Rs. 19.15,000/- from me in the name of sending me to Australia. Written information of which was given to the police on 07-11-2023. Police had called the accused persons, upon which the accused admitted their mistake and apologized to the applicant and the accused settled the matter with the applicant on 04-12-2023 for Rs. 12,65,000/- Compromise was entered into. As per the compromise, accused Sanjeev Kumar and Harpreet alias Honey alias Sardara said that they will return Rs. 5,00,000/- on 15-12-23 and Rs. 6.70,000/- by 30-12-2023 and Rs. 95,000/- were given by Kulbir. Regarding this, the accused also got recorded a written statement, which was accepted as correct by accused and signed in the presence of witnesses. On 30h date. accused Harpreet came and gave total 16 post dated cheques numbered 000015 to 000030 pertaining to HDFC Bank Branch Nejia Kheda IFSC CODE HDFC0009010, A/C NO. 50100324862130. When the first cheque no. 000015 dated 15-01-2024 was deposited in the bank, it was dishonored due to insufficient funds in the account and I did not receive any amount for it, from which it is clear that after the complaint, the accused made a false compromise with me to avoid police action and they have deliberately not deposited the payable amount of the cheque in their account and hence cheating was committed upon me. Actually my family wanted to send me to Australia. My brother Dilbagh on 31-05-2022 went to meet Manjeet Dhall son of Shri Krishna Kumar, who is PR in Australia. When we contacted Manjeet Dhull then he told us that my brother Sanjeev Dhull son of Shri Krishna Kumar has set up his office in Kurukshetra in the name of Global Opportunities, 1st Floor, SCO-223, Sector 10 and he is sending people to Australia, you should go and meet him. On which both of us brothers contacted Sanjeev Dhull in his office, he assured us that he had sent many people to Australia in less money and he fixed Rs. 19,15,000/- for sending me to Australia and out of which he asked me to give Rs. 6,50,000/- in advance and all original documents. On which I gave my original passport, all original IDs and other documents and a blank cheque bearing number 940493 pertaining to PNB, Branch Dhamtan Sahib on 25-07-2022 in the name of my brother Dilbagh which was payable to Sanjeev Dhull. On which he assured me that he will get my work done as soon as possible. When I contacted him after a few days, he said that now your work will be done soon by February-2023 and for this he asked for 6,50,000/- rupees in advance, we said that you can come our home and take the money, then on 16-02-2023 Sanjeev Dhull came to our house in village Dhamtan Sahib and took 6,50,000/- rupees and went away. After a few days, when I contacted Sanjeev Dhull in February 2023, he said that your work has been done, my partner will bring the original visa to you, so arrange for the remaining money quickly. On 22-02-2023 at around 10:30 pm, Sanjeev Dhull along with his partner Sahil alias Harmeet son of Shri Harmahendra presently residing at Sirsa, who is also known as Sardara and Kulbir son of Shri Sukhdev resident of Kothi No: 50, Dream City Colony Machkali Mal Singh Road, Faridkot Mobile No. 9877672285 and Chetan alias Bhala son of Surendra resident of DK Mohan Garden, House No. 11. West Delhi came to our house in a Maruti Swift car Reg. No. PB-04AD-2381 and gave me Australia visa No.*

> *2009503700819 dated 22-02-2023 and took the balance amount of Rs. 12,65,000/- and while leaving told me that they will send your flight ticket also in 3-4 days. After this complainant was is in touch with the accused continuously, but the accused kept postponing it by making one or the other excuse and soon after booking the flight ticket, the accused lingered on the matter for 5-6 months and when I asked them to return money then they introduced me with Nancy wife of Kulbir resident of upon which Nancy said that your work will be done in a good way and also told that she is responsible for their work and I am in government service, there will be no fraud of any kind with you and the accused said that they will get your work done soon and will send your flight ticket before September-2023 and upon my contact on 01-09-2023, accused sent me my flight ticket for the date of 21-09-2023. On which 1 took the ticket and visa, went to Delhi airport and entered the airport and showed my ticket and visa to the immigration staff, after checking the ticket and visa, they told me that both of them are fake and they made me sit there and started questioning me. After questioning, they took my signature and allowed me to go. When I came out and contacted the agent, he assured me that he will either return my money or get me a visa. When I contacted him again, the accused said that we had to cheat you and we have done it and threatened that if I complain anywhere, we will kill you and your family. Audio and video recording of the same will be presented before you. A copy of the passport, a copy of the visa and a copy of the air ticket are annexed with the complaint. Hence, by presenting this complaint to you, a case may be registered against the accused. Legal action may be taken and my money may be recovered.*

3. Learned counsel for the petitioner has argued that the petitioner is in custody since 20.08.2024. Learned counsel for the petitioner has submitted that the petitioner has been falsely implicated into the FIR in question. It has been iterated by the learned counsel for the petitioner that the petitioner had, in fact, at the most only accompanied the main accused, namely, Sanjeev Dhull. Learned counsel for the petitioner has further iterated that there is no substantial evidence put forward by the police along with the challan. Thus, regular bail is prayed for.

4. Learned State counsel has opposed the present petition arguing that the allegations raised are serious in nature and thus the petitioner does not deserve the concession of the regular bail.

5. I have heard counsel for the parties and have gone through the available records of the case.

6. The petitioner was arrested on 20.08.2024 whereinafter investigation was carried out & challan was presented on 18.10.2024. Total 11 prosecution witnesses have been cited and it is a common ground between the parties that the charges are yet to be framed. Thus, it is indubitable that culmination of the trial will take its own time. The FIR in question is primarily pertaining to a magisterial trial. The rival contention of the learned counsel for the parties give rise to debatable issues which shall essentially be gone into during the course of trial. This Court does not deem it appropriate to delve deep into these rival contentions, at this stage, lest it may prejudice the trial. Nothing tangible has been brought forward to indicate the likelihood of the petitioner absconding from the process of justice or interfering with the prosecution evidence.

As per the custody certificate dated 17.02.2025 filed by the learned State counsel, the petitioner has suffered incarceration for about 05 months and 23 days. Further, as per the said custody certificate, the petitioner is said to be involved in other FIR also. Indubitably, the antecedents of a person are required to be accounted for while considering a regular bail petition preferred by him. However, this factum cannot be a ground sufficient by itself, to decline the concession of regular bail to the petitioner in the FIR in question when a case is made out for grant of regular bail *qua* the FIR in question by ratiocinating upon the facts/circumstances of the said FIR. Reliance in this regard can be placed upon the judgment of the Hon'ble Supreme Court in ***Maulana Mohd. Amir Rashadi vs. State of U.P. and another, 2012(1) R.C.R. (Criminal) 586***; a Division Bench judgment of the Hon'ble Calcutta High Court in case of ***Sridhar Das vs. State, 1998(2) R.C.R. (Criminal) 477*** & judgments of this Court in ***CRM-***

M-38822-2021 titled as ***Akhilesh Singh vs. State of Haryana***, decided on 29.11.2021 and ***Balraj vs. State of Haryana, 1998(3) R.C.R. (Criminal) 191***. Suffice to say further detention of the petitioner as an undertrial is not warranted in the facts and circumstances of the present case.

7. In view of totality of factual matrix of the present case, the instant petition is allowed. Petitioner is ordered to be released on regular bail on his furnishing bail/surety bonds to the satisfaction of the Ld. concerned CJM/Duty Magistrate. However, in addition to conditions that may be imposed by the concerned CJM/Duty Magistrate, the petitioner shall remain bound by the following conditions:-

(i) The petitioner shall not mis-use the liberty granted.

(ii) The petitioner shall not tamper with any evidence, oral or documentary, during the trial.

(iii) The petitioner shall not absent himself on any date before the trial.

(iv) The petitioner shall not commit any offence while on bail.

(v) The petitioner shall deposit his passport, if any, with the trial Court.

(vi) The petitioner shall give his cellphone number to the Investigating Officer/SHO of concerned Police Station and shall not change his cell-phone number without prior permission of the trial Court/Illaqa Magistrate.

(vii) The petitioner shall not in any manner try to delay the trial.

8. In case of breach of any of the aforesaid conditions and those which may be imposed by concerned CJM/Duty Magistrate as directed hereinabove or upon showing any other sufficient cause, the State/complainant shall be at liberty to move cancellation of bail of the petitioner.

9. Ordered accordingly.

10. Nothing said hereinabove shall be construed as an expression of opinion on the merits of the case.

11. Since the main case has been decided, pending miscellaneous application, if any, shall also stands disposed off.

18.02.2025 **(SUMEET GOEL)**
Jasmine Kaur **JUDGE**

Whether speaking/reasoned	Yes	No
Whether reportable	Yes	No