



IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

223

CRM-M No.65408 of 2025 (O&M)
Date of Decision:27.11.2025

Chhavi Sharma

.....Petitioner

Versus

State of Punjab

..... Respondent

CORAM: HON'BLE MR.JUSTICE SURYA PARTAP SINGH

Present: Mr. Deman Baghla, Advocate for
Mr.Naresh Jain, Advocate for the petitioner.

Mr. I.P.S. Sabharwal, DAG, Punjab.

SURYA PARTAP SINGH, J. (Oral):

For the commission of offence punishable under Sections 406, 420 of IPC and Section 24 of Immigration Act, the FIR No.228 dated 25.11.2023 has been lodged in Police Station Mataur, SAS Nagar. The petitioner has been arrested in the above mentioned case as an accused. Since the petitioner is in custody, he has filed the present petition for the benefit of bail. This is first petition for bail under Section 483 of Bharatiya Nagarik Surakhsa Sanhita, 2023.

2. Briefly stating the facts emerging from record are that the FIR of this case came into being on the complaint of 'Charanjit Singh', hereinafter being referred to as 'complainant' only. It was stated by the complainant that his son wanted to go to Australia for study, and that for Study-Visa he had approached 'Star Future Education and Immigration Service, Mohali'. According to complainant, he had paid Rs.15,94,880/- as first year fee of the



university in accordance with offer letter through 'Chhavi Sharma's' bank account, and that she had assured the complainant that the complainant would receive visa by April end or in the beginning of May. As per complainant, the visa was never received by him. According to complainant, when he approached 'Chhavi Sharma' about the above mentioned visa she kept on making false promises for a period of almost 6 months, and when he (complainant) demanded his money back and made inquiries he came to know that 'Chhavi Sharma' had never transmitted his fees to the university, which spoiled his career and future prospects. It was also alleged by the complainant that on repeated visits and persistent requests 'Chhavi Sharma' returned only Rs.6,50,000/- to him, and for rest of the amount he has been defrauded.

3. It is the case of the prosecution that on the basis of above mentioned information formal FIR of this case was lodged, and the investigation taken up. As per prosecution during the course of investigation the petitioner was taken into custody.

4. Notice of motion.

5 Since advance notice has already been served, Mr. I.P.S. Sabharwal, DAG, Punjab, appears on behalf of respondent-State, and waives service.

6. The learned State Counsel has filed custody certificate of the petitioner. The same be taken on record. No formal reply has been filed by the State. However, the learned State counsel has orally opted to oppose the present petition.

7. Heard.

8. It has been contended on behalf of the petitioner that petitioner is



innocent, who has been falsely implicated in the present case, and that she has already suffered incarceration for a period of more than 1 year and 11 months. According to learned counsel for the petitioner, the offence is triable by the Judicial Magistrate and the maximum punishment prescribed for the offence is imprisonment up to 7 years.

9. It has been further contended by learned counsel for the petitioner that in the present case there is delay in trial as so far only 4 witnesses have been recorded, whereas list of witnesses furnished by the prosecution contains 11 names. As per learned counsel for the complainant the delay in the trial is to the extent that to procure presence of several witnesses bailable warrants have been issued which is resulting into prolong incarceration of the petitioner.

10. Per contra, the learned State counsel has contended that allegations against the petitioner are for the commission of serious offence of fraud and that petitioner is a habitual offender, who is facing various prosecution of similar nature. While alleging that the conduct of the petitioner does not warrant the benefit of bail, he has urged for dismissal of present bail petition.

11. The record has been peruse carefully.

12. A perusal of the record shows that there are several factors which are required to be taken into consideration at this stage. They are:-

- i) that the offence is triable by the Court of Judicial Magistrate;
- ii) that the petitioner has already suffered incarceration for a period of 1 year and 11 months;
- iii) that nothing is left to be recovered from the possession of the petitioner;



- iv) that the trial of the case is not likely to be concluded in near future;
- v) that being female the petitioner deserves a lenient view;
- vi) that in view of law laid down by the Hon'ble Supreme Court of India in the case of **Prabhakar Tiwari Vs. State of U.P. (2020) 2 SCALE 448**, the pendency of other cases against the petitioner cannot be a ground for denial of bail in this case;
- vii) that detention of the petitioner in judicial lock-up is not likely to serve any purpose;
- viii) that there is nothing on record to show that if released on bail, the petitioner is likely to tamper with the evidence, or influence the witnesses;
- ix) that there is nothing on record to show that if petitioner is released on bail, he will not participate/co-operate in the trial.

13. With regard to the legal aspect involved in the instant case, the principles of law laid down by the Hon'ble Supreme Court in the case of ***"Dataram versus State of Uttar Pradesh and another"*, 2018(2) R.C.R. (Criminal) 131**, are relevant, wherein it has been observed that *"a fundamental postulate of criminal jurisprudence is the presumption of innocence, meaning thereby that a person is believed to be innocent until found guilty. However, there are instances in our criminal law where a reverse onus has been placed on an accused with regard to some specific offences but that is another matter and does not detract from the fundamental postulate in respect of other offences. Yet another important facet of our criminal jurisprudence is that the grant of bail is the general rule and putting a person*



in jail or in a prison or in a correction home (whichever expression one may wish to use) is an exception. Unfortunately, some of these basic principles appear to have been lost sight of with the result that more and more persons are being incarcerated and for longer periods. This does not do any good to our criminal jurisprudence or to our society. There is no doubt that the grant or denial of bail is entirely the discretion of the judge considering a case but even so, the exercise of judicial discretion has been circumscribed by a large number of decisions rendered by this Court and by every High Court in the country. Yet, occasionally there is a necessity to introspect whether denying bail to an accused person is the right thing to do on the facts and in the circumstances of a case”.

14. The principles laid down by the Hon’ble the Supreme Court of India in the case of ‘**Satender Kumar Antil Vs. Central Bureau of Investigation and Another**’, 2022 LiveLaw (SC) 577, are also relevant in this case. In the abovementioned case, it has been observed that “*the rate of conviction in criminal cases in India is abysmally low. It appears to us that this factor weighs on the mind of the Court while deciding the bail applications in a negative sense. Courts tend to think that the possibility of a conviction being nearer to rarity, bail applications will have to be decided strictly, contrary to legal principles. We cannot mix up consideration of a bail application, which is not punitive in nature with that of a possible adjudication by way of trial. On the contrary, an ultimate acquittal with continued custody would be a case of grave injustice*”.

15. Recently, in the case of ‘**Tapas Kumar Palit Vs. State of Chhat-**



tisgarh', 2022 INSC 222, the Hon'ble Supreme Court of India has observed that "if an accused is to get a final verdict after incarceration of six to seven years in jail as an undertrial prisoner, then, definitely, it could be said that his right to have a speedy trial under Article 21 of the Constitution has been infringed". It has also been observed by the Hon'ble Supreme Court of India in the abovementioned case that "delays are bad for the accused and extremely bad for the victims, for Indian society and for the credibility of our justice system, which is valued. Judges are the masters of their Courtrooms and the Criminal Procedure Code provides many tools for the Judges to use in order to ensure that cases proceed efficiently".

16. Therefore, to elucidate further, this Court is conscious of the basic and fundamental principle of law that right to speedy trial is a part of reasonable, fair and just procedure enshrined under Article 21 of the Constitution of India. This constitutional right cannot be denied to the accused as mandated by Hon'ble Apex court in "**Balwinder Singh versus State of Punjab and Another**", SLP (Crl.) No.8523/2024.

17. Taking into consideration the cumulative effect of all the aforesaid factors, it is hereby held that the petitioner is entitled for the concession of bail and that the present petition deserves to be allowed.

18. Accordingly, without commenting anything on the merits of the case, the present petition is hereby **allowed**. The petitioner is hereby ordered to be released on bail on her furnishing personal bond and surety bond(s) to the satisfaction of learned trial Court, subject to the following conditions:-

- i) that the petitioner shall not directly or indirectly make any



inducement, threat or promise to any person acquainted with the facts of the case, so as to dissuade her from closing such facts to the Court or to any other authority;

- ii) that the petitioner shall at the time of execution of bond, furnish the address to the Court concerned and shall notify the change in address to the trial Court, till the final decision of the trial; and
- iii) that the petitioner shall not leave India without prior permission of the trial Court.

19. In case, the petitioner violates any of the conditions mentioned above, it shall be viewed seriously and the concession of bail granted to her shall be liable to be cancelled and the prosecution shall be at liberty to move an application in this regard.

(SURYA PARTAP SINGH)
JUDGE

27.11.2025
Manoj Bhutani

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