



221 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRR-1645-2011 (O&M)
Date of Decision:23.03.2026

Kamal Kumar Jain

...Petitioner

vs.

State of Punjab

...Respondent

Coram : Hon'ble Mr. Justice N.S.Shekhawat

Present : Mr. Sachin Kalia, Advocate for
Mr. R.S.Bajaj, Advocate
for the petitioner.

Mr. Bhanu Pratap Singh, Addl. A.G. Punjab.

N.S.Shekhawat J. (Oral)

1. The petitioner has filed the present revision petition against the impugned judgment dated 25.07.2011 passed by the Court of Additional Sessions Judge (Adhoc), Fast Track Court, Hoshiarpur and the judgment of conviction and order of sentence dated 20.09.2010 passed by the Court of Sub-Divisional Judicial Magistrate, Dasuya, whereby, the petitioner was convicted for the commission of offence punishable under Section 420 of IPC and was sentenced to undergo rigorous imprisonment for a period of one year and to pay a fine of Rs.500/- alongwith default stipulation.

2. The brief facts of the case are that Sucha Singh, complainant moved an application with SHO, P.S.Tanda for registration of criminal case against accused Kamal Kumar Jain on the allegations that in the year 1992, on the eve of Martyrdom day of Shri Guru Arjun Dev Ji, accused Kamal Kumar Jain had taken Rs. 1 lac from him in the presence of Master Pargan Singh and



Nachhatar Singh on the pretext of sending his son Sohan Singh to Germany. However, his son was sent to Moscow, where he remained under agony and returned to India after spending Rs. 50,000/-. It was further stated that accused could neither send his son abroad nor he returned the money. Upon receipt of the said application, a case was registered. Investigation was initiated by E.O. Wing, Hoshiarpur. After completion of necessary investigation, challan against the accused was presented before trial Court.

3. After presentation of challan, the trial Court found that a *prima facie* case under Section 420 of IPC was made out against the petitioner and he was charge-sheeted, accordingly. However, he pleaded not guilty and claimed trial.

4. In support of the prosecution case, the prosecution examined 06 witnesses, namely, PW-1 Sucha Singh, complainant, PW-2, ASI Balbir Singh, PW-3 Nachhatar Singh, alleged eye-witness of payment, PW-4 constable Sukhdev Singh, PW-5 Ajay Singh, Staff Officer to I.G. Police, PW-6 Sohan Singh and thereafter, evidence of the prosecution was closed by order.

5. After closure of the evidence of prosecution, the statement of the accused under Section 313 Cr.P.C. was recorded and all the incriminating circumstances appeared in the evidence of prosecution were put to the accused. However, he stated that he was falsely involved in the present case and was innocent. The petitioner chose not to lead any defence evidence.

6. At the very outset, learned counsel for the petitioner submits that he does not wish to challenge the judgments of conviction, however, some leniency may be shown towards him, while awarding the sentence to him. Even



though, the petitioner has not challenged the judgments of conviction, still, this Court has examined the case on merits.

7. Learned State counsel contended that the petitioner does not deserve any concession regarding sentence and the present revision petition be dismissed.

8. I have heard learned counsel for the parties and perused the record carefully.

9. In the present case, the complainant Sucha Singh had appeared as PW-1 and had disclosed the payment of money to the petitioner in the present case. He submits that the petitioner had misrepresented that his son will be sent abroad, after receipt of payment of Rs.1 lac. The prosecution examined PW-3, Nachattar Singh, in whose presence the payment was made by the complainant. Further, PW-6, Sohan Singh, son of the complainant, who was to be sent to Germany by the petitioner, was also examined. Even though, he was declared hostile by the State, however, he had supported the story of the prosecution in all material particulars. Thus, on the basis of the testimony of three witnesses, it stands established that a sum of Rs.1 lac was taken fraudulently by the petitioner from the complainant, on the pretext of sending his son abroad. Still further, the payment was made in the year 1992, but the petitioner was putting off the matter on one pretext or the other. Consequently, the prosecution was launched by getting the FIR registered on 04.09.2001 and the delay would not be fatal to the case of the prosecution. Even otherwise, I have gone through the judgments passed by both the Courts and find no infirmity or illegality in the impugned judgments.



10. Now adverting to the order on quantum of sentence, this Court cannot lose sight of the fact that the petitioner is facing the prosecution in the present case since 04.09.2001 i.e. for the last more than 24 years. Moreover, the petitioner is the first offender and sole bread winner of the family and no criminal case was ever registered against him. Further, the sentence imposed on the petitioner was suspended by this Court on 01.11.2011 and in the last more than 15 years, the petitioner has maintained good conduct. Even otherwise, he has already undergone 03 months and 10 days of actual custody, out of total sentence of one year. Apart from that, at present, the petitioner is more than 70 years old. Thus, keeping in view the mitigating circumstances, this Court is of the considered opinion that a lenient view can be taken while imposing sentence on the petitioner. The sentence imposed on the petitioner is reduced to the period already undergone by him. However, the amount of fine imposed on him shall remain same.

11. With the above modifications, the present revision petition is partly allowed and the judgment of conviction is upheld, whereas, the sentence imposed on the petitioner is reduced to the period already undergone by him and the amount of fine imposed on him shall remain same.

12. Pending applications, if any, stand disposed of, accordingly.

(N.S.SHEKHAWAT)
JUDGE

23.03.2026
hemlata

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