



IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

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CRM-M No.66219 of 2025 (O&M)
Date of Decision: 25.02.2026

Gurwinder Singh

.....Petitioner

Versus

State of Punjab

..... Respondent

CORAM: HON'BLE MR.JUSTICE SURYA PARTAP SINGH

Present: Mr. Vikramjeet Singh, Advocate for the petitioner.

Mr. Eklavya Darshi, DAG, Punjab.

SURYA PARTAP SINGH, J. (Oral):

This is first petition for bail, filed by the petitioner under Section 483 of the 'Bharatiya Nagarik Suraksha Sanhita 2023'. This petition has been filed with regard to a case arising out of FIR No.97 dated 02.12.2024, for the commission of offence punishable under Sections 420 of Indian Penal Code, hereinafter being referred to as 'IPC', only, Police Station City Balachaur, District SBS Nagar.

2. Briefly stating the facts emerging from record are that the FIR of this case came into being at the instance of 'Ajay Kumar', hereinafter being referred to as 'complainant', only. It was stated by the above named complainant that he was impressed with a video footage of 'Gurwinder Singh' on social media account, i.e. Instagram and Facebook, wherein he had claimed that his company can arrange consulate letter for the aspirants of immigration to other countries within three days and 'Visa' within twenty days. As per complainant since he was eager to settle abroad, along with his family, he



approached Ropar Branch of the company of Gurwinder Singh (petitioner herein), wherein the partners of the above mentioned company demanded a sum of Rs.16,00,000/- for arranging the requisite documents for immigration of complainant and his family. According to complainant he paid the above mentioned amount and the same was received by the complainant and his partners under a promise that 'Visa' would be arranged and but the same was never arranged. Thus, the complainant claimed that the petitioner and his partners cheated him.

3. It is the case of the prosecution that in view of above mentioned information formal FIR of this case was lodged and the investigation taken up.

4. Notice of motion.

5. Since advance notice has already been served, Mr. Eklavya Darshi, DAG, Punjab, appears on behalf of respondent-State. Hence, service of notice upon the State is hereby dispensed with.

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 opposed the present petition.

7. Heard.

8. It has been contended by learned counsel for the petitioner that the petitioner is innocent who is being prosecuted in a criminal case, whereas the nature of dispute between the parties is civil. According to learned counsel for the petitioner the petitioner has already suffered a prolonged incarceration for being in custody for a period of 9 ½ months, and that nothing has been left to be recovered from the possession of petitioner. As per learned counsel for the



petitioner the detention of petitioner in the judicial lock-up is not likely to serve any purpose. While claiming that the trial is not likely to be concluded in near future, it has been contended by learned counsel for the petitioner that the petitioner is entitled for the benefit of bail.

9. The learned State counsel has controverted the above mentioned arguments. According to learned State counsel in the present case there are very specific and categorical allegations against the petitioner, and his partners, that they received Rs.16,00,000/- from the complainant on the pretext of arranging documents for the complainant for immigration to a foreign country, but no document, whatsoever, was arranged by the petitioner and his partners. As per learned State counsel since right from the very beginning the intention of the petitioner was to cheat the complainant, it is established that there was an element of *mens rea* in the above mentioned transaction, and therefore, the above mentioned act of the petitioner amount to a criminal offence punishable under Section 420 IPC.

10. In addition to above, the learned State counsel has also contended that one of the important aspect to be noted is that, that the present case is not an isolated instance, wherein the petitioner is being prosecuted for the above mentioned offence. While referring to the contents of custody certificate it has been contended by learned State counsel that there are twenty other cases pending against the petitioner, registered in different police stations, for the commission of offence punishable under Section 420 IPC and similar provisions. As per learned State counsel in view of above mentioned conduct of the petitioner he is not entitled for the benefit of bail.

11. The above mentioned arguments have been controverted by learned



counsel for the petitioner. It has been contended by learned counsel for the petitioner that *firstly*, the other partners of the petitioner have not been prosecuted by the police and *secondly*, in view of principle 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' and 'Maulana Mohd. Amir Rashadi Vs. State of U.P. and another, 2012(1) SCC (Cri) 681', the pendency of other cases against the petitioner does not have any relevance in the present petition.

12. The record has been perused carefully.

13. A perusal of record shows that following are the relevant aspects, which are required to be taken into consideration for a decision in the present petition:

- i) that there are very specific and categorical allegations against the petitioner with regard to the fact that on the pretext of arranging immigration documents for the complainant, he and his partner received Rs.16,00,000/- and thereafter no document was ever provided to the complainant. The above mentioned conduct of the petitioner generates a very strong impression that it was never intended by the petitioner to arrange the documents for immigration of petitioner. Since there is a very strong doubt that right from the very beginning the petitioner did not intend to arrange documents for the complainant, this argument of learned counsel for the petitioner does not hold good that the dispute between the parties is only a civil dispute and there is no existence of *mens rea* on the part of petitioner;
- ii) that in the present case, there are very specific and categorical



allegations against the petitioner that he was instrumental in convincing the complainant to pay money for immigration documents, and thus, a prominent role was played by the petitioner in the commission of offence, which renders him liable for the offence;

- iii) even if the partners of petitioner have not been prosecuted by the prosecution agency, it does not mean that *ipso facto* the petitioner should be held innocent with regard to present offence;
- iv) as far as the plea that pendency of other cases cannot have an impact on the outcome of present petition, is concerned, in view of the fact that in the present case the pendency of other cases is not the sole ground for denying the bail and there are other relevant factors also, it is hereby held that the factual matrix of the present case being different the principles of law laid down in the cases of Prabhakar Tiwari (supra) and Mohd. Amir Rashadi are not applicable to the present case.

14. Taking into consideration the cumulative effect of all the abovementioned factors, it is hereby observed that the present petition is devoid of merit and deserve dismissal. Hence the same is hereby **dismissed** accordingly.

(SURYA PARTAP SINGH)
JUDGE

25.02.2026
Manoj Bhutani

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