

2025:PHHC:108715



CRM-M-36045-2025

290

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH
CRM-M-36045-2025

Date of decision: August 20, 2025

Kapil Sharma @ Mohit Sharma @ Garry

....Petitioner

Versus

State of Punjab

....Respondent

CORAM: HON'BLE MR. JUSTICE SUMEET GOEL**Present:-** Mr. Suram Singh Rana, Advocate for the petitioner.

Mr. Baljinder Singh Sra, Additional AG Punjab.

SUMEET GOEL, J. (ORAL)

1. Present petition has been filed under Section 483 of the Bharatiya Nagarik Suraksha Sanhita, 2023 (for short 'BNSS') for grant of regular bail to the petitioner in case bearing FIR No.85 dated 10.08.2023, registered for the offences punishable under Sections 420, 419, 201 of the Indian Penal Code, 1860 (for short 'IPC') and Section 13 of the Punjab Travel Professional (Regulation) Act, 2014, at Police Station Majitha Road, Amritsar.
2. The case set up in the FIR in question (as set out in the present petition by the petitioner) is as follows:

“Present complaint bearing no:-184306-PGD dated 20.06.2023 Along with Enquiry Report of Addl. Deputy Commissioner of Police, Crime Branch, Amritsar was received at the police station for registration of the case, the contents of which are as follows:- To the Commissioner of Police, Amritsar. Subject:- with regard to committing fraud and cheating on the pretext of sending abroad against Kapil Sharma, Jatin, Vikash Pathak and their staff members namely Tanu madam and Ritu madam. (1) Sir, requested that I, Harwinder Singh So Gurnam Singh, Resident of village & post office Chabba, Patti Lehndi, District Amritsar and peace loving citizen. (2) That I submitted my documents to Rinkle Enterprises Immigration services for going to Canada on work visa, situated at Batala road celebration hall opposite country yard hotel Amritsar. I came to know about the Immigration services of Kapil Sharma through facebook page. He received Rs 8,80,000/- from me alongwith scanned copies of my passport and other documents and returned my original passport to me and told that whenever the same be need then I have to submit the same. The

2025:PHHC:108715



CRM-M-36045-2025

said Kapil Sharma received the abovementioned money on different occasions from me i.e. Rs. 50,000/- through bank transactions in his mother's bank account namely Pawan Kumari from account no. 50100521389711, HDFC • bank, Warpal Branch, District Amritsar into account no. 11005411584 (Pawan Kumari), another payment of Rs. 1,50,000/- was transferred from account no. 02461000091502 Punjab & Sind Bank, Warpal Branch, District Amritsar into Pawan Kumari's account. Thereafter, Rs. 3,30,000/-was also deposited in different accounts which are (1) account no. 50100375720703 (2) 50200073880865 and account no. 11005411584 of Pawan Kumari. He told me that he will take Rs. 12 lacs from me for sending me on work-visa to Canada. He took some amount in cash an some in bank accounts of Pawan Kumari. There was some balance amount which was remaining to be paid to him but the above named accused fled away after closing his office. We tried to search him but we were unable to find him. Then we went to his office which was found to locked thereafter we tried to contact his employee Tanu who was working as incharge of his office and usually call the people to deposit the money so that they will arrange for their visa at the earliest. There were two other girls who call other clients and assure them that their visa will be received soon and they will be able to earn good income at Canada. Subsequently you will also get your PR. There is another boy namely Kapil @ Badshah in the office who is very faithful to Kapil Sharma and known about the house, properties and other places of said Kapil Sharma. It has come to our knowledge that the whatsapp call of Tanu and Kapil Sharma with their staff members is still operational. Kapil Sharma has also obtained my signatures for my Canadian work visa. He received the above money by enticing me in the name of biometric ticket, medical and insurance. He also told me that this amount includes the expenses of getting visa as well as accommodation. For the last about few months, Kapil Sharma and his staff members are making false promise to send me abroad and on reaching there you will be able to work immediately. He further assured me that in case my work and conduct will be good then my visa will also be extended and thereafter on the basis of same you will get PR. (3) That the other associates of Kapil Sharma namely Jatin who deals with new clients and Vikas Pathak who introduce himself as an advocate and get all the papers signed from the clients. Other girl employees namely Ritu and Geetu who call the clients on their personal phones and call them to bring money for the purpose of their passport etc. All other dealings are made by Kapil Sharma himself alongwith his other associates in their office. Opening and closing of the office is done by Kapil @ Badshah who retain the keys of office and also has knowledge of all documents etc. (4) On 26.05.2023 our appointment was fixed at Delhi and when we reached there then we were told that our appointment has postponed and is now fixed for 29.05.2023. Thereafter we came back to Amritsar. We tried to find Kapil Sharma and his associates but his office was closed thereafter we tried to contact Tanu madam but she did not picked up the phone and told me that many clients are making calls in this regard but she has no reply of the same. I am also trying to contact Kapil Sharma on the same but he is also not picking up his calls. I have also sent messages that I am coming to Amritsar next Monday and the things be corrected by them. Thereafter, we approached the owner of the building Mr. Ahluwalia, who provided copy of Aadhar card which was later on found to be fake. Therefore, it is requested that a strict legal action in accordance with law be taken against the Kapil Sharma and his associates and our hard earned money which has been cheated by fraud my kindly be recovered and returned to us. Justice may kindly be delivered to us.”

2025:PHHC:108715



CRM-M-36045-2025

3. Learned counsel for the petitioner has iterated that the petitioner is in custody since 25.08.2023. Learned counsel has further iterated that the petitioner has been falsely implicated into the FIR in question. Learned counsel has further argued that the complainant has got recorded the FIR in question against the petitioner as the petitioner was not able to provide services to the complainant to his satisfaction. Learned counsel has further iterated that the trial in question is magisterial in nature and the petitioner has already suffered incarceration for more than 01 year in the FIR in question. Since the challan has already been filed before the competent Court of jurisdiction and hence no useful purpose would be served by keeping the petitioner in custody. Thus, regular bail is prayed for.

4. Learned State counsel has opposed the present petition by arguing that the allegations raised against the petitioner are serious in nature and thus the petitioner does not deserve the concession of the regular bail. Learned State counsel seeks to place on record the custody certificate dated 19.08.2025 and short reply by way of an affidavit dated 18.08.2025 of Neeraj Kumar, PPS, Assistant Commissioner of Police, North, Amritsar (Additional charge), in the Court today, which are taken on record.

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

6. The petitioner was arrested on 25.08.2023 whereinafter investigation was carried out and challan was presented on 15.09.2023. Total 19 prosecution witnesses have been cited, out of which only 04 have been examined till date. It is indubitable that the conclusion of trial will take some time. This Court does not deem it appropriate to delve deep into these rival

2025:PHHC:108715



CRM-M-36045-2025

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 custody certificate dated 19.08.2025 filed by learned State counsel, the petitioner has already suffered incarceration for a period of more than 01 year, 11 months and 21 days. Further, as per the said custody certificate the petitioner is stated to be involved in multiple FIRs/cases. 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 v. State of U.P. and another, 2012 (1) RCR (Criminal) 586*, a Division Bench judgment of the Hon'ble Calcutta High Court in case of *Sridhar Das v. State, 1998 (2) RCR (Criminal) 477* & judgments of this Court in CRM-M No.38822-2022 titled as *Akhilesh Singh v. State of Haryana*, decided on 29.11.2021, and *Balraj v. State of Haryana, 1998 (3) RCR (Criminal) 191*.

Suffice to say, further detention of the petitioner as an undertrial is not warranted in the facts and circumstances of the case.

7. In view of above, the present 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.

2025:PHHC:108715



CRM-M-36045-2025

- (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.

(SUMEET GOEL)
JUDGE

August 20, 2025

mahavir

Whether speaking/reasoned: Yes/No

Whether reportable: Yes/No