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2025:PHHC:139406



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IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

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Date of decision: October 08, 2025

Kunal Gill

...Petitioner

Versus

State of Punjab

...Respondent

**CORAM: HON'BLE MR. JUSTICE SUMEET GOEL**

**Present:-** Mr. G.S. Bawa, Advocate and  
Mr. Prince Pasricha, Advocate for the petitioner.

Mr. Jaypreet Singh, DAG Punjab.

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**SUMEET GOEL, J. (ORAL)**

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.248 dated 31.12.2020, registered for the offences punishable under Sections 420 & 120-B of the Indian Penal Code, 1860 (for short 'IPC') and Section 24 of the Immigration Act, 1983, at Police Station Division No.2, Distirct Ludhiana.

2. The gravamen of the allegations against the petitioner is that complainants, namely, Prabhjit Singh and Satpal Singh, lodged a complaint with the police alleging that Prabhjit Singh was desirous of going abroad. For this purpose, he contacted one Pankaj Khokhar, who assured them of arranging a work permit and visa for Canada in consideration of a sum of ₹10,00,000/-.

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Out of this amount, ₹50,000/- was fixed for documentation, ₹2,10,000/- was to be taken as the first installment, ₹1,00,000/- after issuance of the job letter, and the balance amount was to be paid after obtaining the work permit. Pursuant to this assurance, the complainants paid ₹50,000/- in cash initially, ₹1,30,000/- in cash towards advocate fees and medical charges, ₹80,000/- in cash upon being informed that the work permit had been issued, towards tickets and other expenses, ₹1,00,000/- through Cheque No.544563 dated 10.12.2019 drawn on State Bank of India, Akalsar Road, Moga Branch, which was encashed by the accused on 14.12.2019. In this manner, the accused received a total of ₹3,60,000/- from the complainants. However, despite receiving the said amount, the complainants were never sent to Canada. On demanding their money back, the accused issued Cheque No.000398 dated 30.01.2020 for ₹46,666/- and Cheque No.000397 dated 20.01.2020 for ₹46,666/-, both of which were dishonoured on presentation. During inquiry, it was found that the complainants were cheated under a criminal conspiracy by Travel Agent Pankaj Khokhar and Kunal Gill (petitioner herein).

3. Learned counsel for the petitioner has argued that the petitioner is in custody since 08.10.2023. Learned counsel has further argued that the petitioner has been falsely implicated into the FIR in question. Learned counsel has further iterated that no money was ever actually given to the petitioner. Learned counsel has further iterated that the petitioner is in custody for the last about 02 years. Thus, regular bail is prayed for.

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

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on record custody certificate dated 05.10.2025 in Court, which is taken on record.

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

Before delving into the matter further, it would be germane to refer herein the case law governing the issue in hand:

*“5.1 Gudikanti Narasimhulu and others vs. Public Prosecutor, High Court of Andhra Pradesh AIR 1978 SUPREME COURT 429, relevant whereof reads as under:*

*“10. The significance and sweep of Article 21 make the deprivation of liberty a matter of grave concern and permissible only when the law authorising it is reasonable, even-handed and geared to the goals of community good and State necessity spelt out in Article 19. Indeed, the considerations I have set out as criteria are germane to the constitutional proposition I have deduced. Reasonableness postulates intelligent care and predicates that deprivation of freedom- by refusal of bail is not for punitive purpose but for the bi-focal interests of justice-to the individual involved and society affected.*

*11. We must weigh the contrary factors to answer the test of reasonableness, subject to the need for securing the presence, of the bail applicant. It makes sense to assume that a man on bail has a better chance to prepare or present his case than one remanded in custody. And if public justice is to be promoted, mechanical detention should be close to ours, the function of bail is limited, 'community roots' of the, applicant are stressed and, after the Vera Foundation's Manhattan Bail Project, monetary suretyship is losing ground. The considerable public expense in keeping in custody where no danger of disappearance or disturbance can arise, is not a negligible consideration. Equally important is the deplorable condition, verging on. the inhuman, of our sub-jails, that the unrewarding cruelty and expensive custody of avoidable incarceration makes refusal of bail unreasonable and a Policy favouring release justly sensible.*

*12. A few other weighty factors deserve reference. All deprivation of liberty is validated by social defence and individual correction along an anti-criminal direction. Public justice is central to the whole scheme of bail law. Fleeing justice must be forbidden but punitive harshness should be minimised. Restorative devices to redeem the man, even, through community service, meditative drill, study classes or other resources should be innovated, and playing foul with public peace by tampering with evidence, intimidating witnesses or committing offence while on judicially sanctioned 'free enterprise,' should be provided against. No seeker of justice shall play confidence tricks on the court or community. Thus, conditions may be hung around bail orders, not to cripple but to protect. Such is the holistic jurisdiction and humanistic*

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*orientation invoked by the judicial discretion correlated to the values of our constitution.”*

5.2. Further, the Hon’ble Supreme Court in a judgment titled as **Gurcharan Singh vs. State (UT of Delhi) 1978 (1) SCC 118**, has held as under:

*“Where the granting of bail lies within the discretion of the court, the granting or denial is regulated, to a large extent, by the facts and circumstances of each particular case. Since the object of the detention or imprisonment of the accused is to secure his appearance and submission to the jurisdiction and the judgment of the court, the primary inquiry is whether a recognizance or bond would effect that end.”*

5.3 Furthermore, the Hon’ble Supreme Court in a judgment titled as **Sanjay Chandra vs. CBI (2012) 1 SCC 40**, has held as under:

*“21. In bail applications, generally, it has been laid down from the earliest times that the object of bail is to secure the appearance of the accused person at his trial by reasonable amount of bail. The object of bail is neither punitive nor preventative. Deprivation of liberty must be considered a punishment, unless it can be required to ensure that an accused person will stand his trial when called upon. The courts owe more than verbal respect to the principle that punishment begins after conviction, and that every man is deemed to be innocent until duly tried and duly found guilty.*

*22. From the earliest times, it was appreciated that detention in custody pending completion of trial could be a cause of great hardship. From time to time, necessity demands that some unconvicted persons should be held in custody pending trial to secure their attendance at the trial but in such cases, “necessity” is the operative test. In this country, it would be quite contrary to the concept of personal liberty enshrined in the Constitution that any person should be punished in respect of any matter, upon which, he has not been convicted or that in any circumstances, he should be deprived of his liberty upon only the belief that he will tamper with the witnesses if left at liberty, save in the most extraordinary circumstances.”*

6. The petitioner was arrested on 08.10.2023 whereinafter investigation *qua* the petitioner was carried out and challan *qua* him has been presented in the case on 06.12.2023. Total 16 prosecution witnesses have been cited, out of which, only 03 have been examined till date. It is, thus indubitable that conclusion of the trial will take its own time. The rival contention raised at Bar give rise to debatable issues, which shall essentially be ratiocinated upon 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

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petitioner absconding from the process of justice or interfering with the prosecution evidence.

6.1. As per custody certificate dated 05.10.2025 filed by learned State counsel, the petitioner has already suffered incarceration for a period of 01 year, 11 months and 27 days. Further, as per said custody certificate, the petitioner is stated to be involved in other FIR(s). 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 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.

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- (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**

October 08, 2025  
mahavir

Whether speaking/reasoned: Yes/No

Whether reportable: Yes/No