

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

**CRM-M-21081-2024
Date of Decision: July 31, 2024**

GURPREET SINGH

....Petitioner

VERSUS

STATE OF PUNJAB

....Respondent

CORAM: HON'BLE MR. JUSTICE SANDEEP MOUDGIL

Present: Mr. G.S. Sidhu, Advocate
for the petitioner.

Mr. J.S. Rattu, DAG, Punjab.

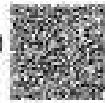
SANDEEP MOUDGIL, J.(ORAL)

Relief Sought

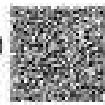
1. The jurisdiction of this Court under Section 439 Cr.P.C., has been invoked for the grant of regular bail to the petitioner in FIR No.02 dated 06.01.2023, under Sections 420, 465, 467, 468, 471, 120-B IPC, registered at Police Station Joga, District Mansa.

2. Prosecution story set up in the present case as per the version in the FIR reads as under:-

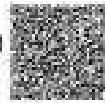
'Copy of application, one application was moved by Satpal Sharma son of Sh. Hem Raj son of Inderjit Sharma, caste Pandit, resident of Kot Dharmu, District Mansa, Mobile 73772-93072 to the respected Inspector General of Police, Bathinda Range, Bathinda, the contents of which are as under: Respected Inspector General of Police, Bathinda Range, Bathinda. Subject: application against Vipan Kumar son of Mohan Lal and his



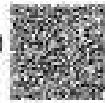
wife Veera Kaur, caste Mahajan, riot victims colony, Model Town, Bathinda Mobile No.76960-49701 and Jaswinder Singh @ Bunty son of Mewa Singh, resident of Kot Dunna, Police Station Dhanaula, Mobile No.98087- 44046, and Gurpreet Singh son of Baldev Singh resident of Kale Ke, Police Station Dhanaula, District Sangrur, Angrej Singh Office, Pipli Road, Old Petrol Pump, Kurukshetra and Raj Rohti, Delhi, Mobile no.90658- 31778 and two three unknown persons for registration of case against this International gang under sections 420, 467, 468, 671, 120-B of IPC for committing cheating by forging fake documents, joining order of General Manager Food Corporation Delhi and for affixing fake stamps. Sir, requested that I am Satpal Sharma so of Sh. Hem Raj son of Inderjit Sharma, Caste Pandit, Resident of Kot Dharmu, District Mansa and doing domestic work. My sister Paramjit Kaur is married to Balvir Chand, caste Pandit, resident of Bhopal Kalan, My brother-in-law Balvir Chand has died on 02.10.2015, from their wedlock my nephew Harwinder Sharma has born. After the death of my brother-in-law, my sister Paramjit Kaur is remaining mentally disturbed. My nephew Harwinder Sharma is well educated and he was in the search of job. About one year ago, Vipan Kumar and his wife Veera met us at Sal Nath Finance Company, Chand Chalal Street, Mansa where I went to know about finance. There we have got introduced with them, where Veera and Vipan Kumar told me that he and his wife Veera are providing government jobs and they have give and take relations with the higher officers in Food Corporation of India, Delhi. If any boy wants job then he can contact us. Vipan Kumar has given me his mobile phone no. 76960-49701 and I have given mobile number 95306- 93925 of my nephew Harwinder Sharma to him. Then in the month of August Vipan Kumar and his wife Veera started making phone calls to my nephew Harwinder Sharma and were saying that posts have been advertised in FCI Food Corporation of Delhi and the name of post is POST OF AG III (CLERK) IN THE SUB-ORDINATE FOOD & SUPPLIES SOUTH ZONE IN THE FOOD CORPORATION



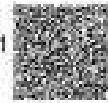
OF INDIA and he can provide you job. My nephew Harwinder Sharma told me all this conversation. While coming under the trap of job on 22.08.2020 we have called Vipan Kumar and his wife Veera Kaur at our village Bhopal Kalan. Alongwith him Jaswinder Singh @ Bunty son of Mewa Singh resident of Kot Dunna and Gurpreet Singh @ Kala son of Baldev Singh, caste SC, resident of Kale Ke have come in the vehicle PB-03BF-0651 car Vento Volksvegon colour white of Vipan Kumar and they have discussed with my sister Paramjit Kaur for providing job to my nephew Harwinder Singh in my presence and demanded Rs.12 lacs and the deal was finalized to provide job for Rs.10 lacs and on the same day, Vipan Kumar and his wife Veera and Jaswinder Bunty, Gurpreet Kala have taken Rs.2 lacs from us and on the next day all these four persons took me alongwith my nephew Harwinder Sharma to Kurukshetra in the office of Angrej Singh at Pipli Road near Old Petrol Pump, where they have introduced us with Vikas Kumar where Angrej and that person were claiming themselves as some high ranking officers in Food Corporation of India, Delhi and they gave assurance us to provide job and said that the deal which Vipan Kumar etc. have settled with you to provide job to Harwinder Sharma, the same they have told them which is accepted to them. They all the persons will do adjustment. Then on 27.08.2020 all these persons came to the house of my sister Paramjit Kaur at village Bhopal Kalan and gave us one nomination form No.Estt. (Recruitment) 2018/2019 Memo No.FCI/1905/NARELA/2019 EMPLOYEE NO.FCIDEL/ 88137844 DATED 22.07.2020 in the name of Harwinder Sharma regarding joining in the job and my sister Paramjit kaur and my nephew Harwinder Sharma have handed over Rs.8,00,000/- to the above said persons. Then on 05.09.2020, Vipan Sharma got the medical examination of my nephew Sharma conducted from Dr. Ranjit Raipuri Clinic and then on 28.08.2020, they took my nephew Harwinder Sharma to Narela Delhi for training where for about 2% months till 16 October one person namely Vikas Kumar used to take him to Grain Market, Narela, Delhi for training and they



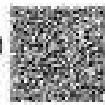
got my nephew stayed in Aggarwal Dharamshala, opposite cold station Narela. After the training they got delayed the matter for joining on one pretext or the other. Later on we came to know that they have committed cheating of Rs.1 crore with other persons in which my son is also included. When I alongwith my nephew Inquired more then all this has found fake. My sister Paramjit Kaur and my nephew Harwinder Sharma have bring Rs.10 lacs from commission agent In my presence and handed over to above said persons for bright future of my nephew, the proofs regarding which will be produced during the inquiry of application. Vipan Kumar and his wife are king pin and big cheater in this gang. All these persons in connivance with each other by preparing fake documents, by putting fake seals and by putting fake signatures with intention to grab money have committed cheating with my nephew and with other persons also, regarding the cheating committed with them other proofs are also available and more applications are pending. This is an international gang. Veera and Vipan Kumar are expert for committing cheating with innocent people in the name of providing job. They have given fake documents/ proofs to my nephew Harwinder Sharma and us, the copies of which are annexed with the application. Legal action be taken against them. It is also mentionable here that call details of Vipan Kumar and Jaswinder Singh @ Bunty of dates 27 August, 28 August 2020 is available which they were doing on phone in our presence at the house of my sister Paramjit Kaur at village Bhopal Kalan and if traced their location can also be found, from which the fact of cheating committed with us will be clear. Legal action be taken against above said persons, we shall be thankful to you. Sd/- Satpal Sharma son of Sh. Hem Raj son of Inderjit Sharma, Caste Pandit, resident of Kot Dharmu, District Mansa, Mobile No.73472-93072. Respected Inspector General of Police, Bathinda vide no. 122/PC-2/BTA-R dated 09.03.2021 marked to the Senior Superintendent of Police, Bathinda and directed to conduct further proceedings. Respected Senior Superintendent of Police, Bathinda



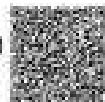
vide his no.209/BTR/2021 dated 11.03.2021 sent to EOW Cyber Crime for further proceedings who after inquiry of application sent back to Senior Superintendent of Police, Bathinda vide their number EOW BTA 379/SC dated 13.03.2021. As per report of EOW Bathinda, respected SSP Sahib Bathinda alongwith all the documents sent to respected Inspector General of Police, Bathinda vide letter no.937-S/P.C. dated 01.05.2021 with request to send the same to District Mansa, who has sent to respected SSP Sahib Mansa vide no.237-2/233/S dated 28.05.2021. SSP Sahib Mansa vide no.233/S488-91-554/PM/ dated 01.11.2021 sent to SSP (PBI) for Inquiry and respected SSP Sahib Mansa after watching the report of respected SP (PBI) directed SP (HQ) to conduct the inquiry of application. Respected SP (HQ) after the Inquiry of application prepared his report vide rapat no.57E/5C/SP (HQ)/ Mansa dated 31.10.2022, the contents of which are as under, "through the applications mentioned in subject applicant Satpal Sharma above has made allegations against Vipan Kumar son of Mohan Lal, Veera Kaur residents of Model Town, Bathinda, Jaswinder Singh @ Bunty son of Mewa Singh, resident of Kot Dunna, Gurpreet Singh resident of Sangrur, Angrej Singh office Pipli Road, Near Old petrol Pump Kurukshetra, Raj Rohti Delhi and Rohit Khan residents of Bodhgaya (Jharkhand) for committing cheating of Rs.10 lacs by preparing fake documents, joining order of General Manager, Food Corporation, Delhi in the name of providing job to his nephew Harwinder Sharma son of Balvir Chand resident of Bhopal Kalan in department of Food Corporation of India, Delhi and written regarding taking legal action. This application was marked for inquiry to Sh. Rakesh Kumar, then Superintendent of Police (PBI), Mansa vide no.237-2/233/ dated 28.05.2021 of your office. Earlier one application no.140-2/491/PM dated 23.03.2021, of Deepak Kumar son of complainant Satpal Sharma above, application no.137- 2/486/PM dated 23.03.2021 of nephews Kanchandeep son of Hem Raj resident of Kot Dharmu and application no.139-2/490/PM dated 23.03.2021 of Kamaldeep Singh



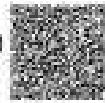
son of Hem Raj resident of Kot Dharmu and application no.138-2/489/ PM dated 23.03.2021 of Jagsir Singh son of Bikkar Singh, resident of Moosa and application No.263-1/554/PM dated 02.04.2021 of Gulshan Kumar resident of Veer Nagar Mohalla, Mansa were already pending for inquiry with inquiry officer Superintendent of Police (PBI), Mansa. Inquiry officer Sh. Rakesh Kumar PPS, the then Superintendent of Police (PBI), Mansa regarding the above mentioned applications vide his report no.25, 26, 27, 28, 31, 34/5C/SP/ HQ/ Mansa dated 06.08.2021 recommended to take action as per law after watching the applications during investigation of FIR No.54 dated 01.04.2021 under sections 420, 465, 487, 468, 471, 120-B IPC, Police Station City-2 Mansa and by taking all the facts on file. The relevant part of this inquiry report is as under, "Applicants Jagsir Singh son of Bikkar Singh resident of Moosa, Kamaldeep Singh and Kanchandeep sons of Hem Raj, Deepak son of Satpal residents of Kot Dharmu, Gulshan Kumar son of Krishan Lal resident of Ward no.16, Veer Nagar Mohalla, Mansa through their respective applications have demanded to take legal action against Gurcharan Singh son of Sh. Gurdyal Singh, resident of Deep Chand street, Mansa, Ward no.14, Cremation Ground Road, Mansa for committing cheating of Rs.7-7 lacs by preparing fake documents in the name of providing job in Food Corporation of India, Delhi, which have been received in this office vide letter no.138-2/488/PM dated 23.03.2021 of office of the respectable SSP Sahib Mansa alongwith no. 138-2/489/PM dated 23.03.2021 the application given by Kanchandeep resident of Kot Dharmu alongwith no.139-2/490/PM dated 23.03.2021 application given by Jagsir Singh resident of Moosa alongwith no.140-2/491/PM dated 23.03.2021 application given by Kamaldeep Singh resident of Kot Dharmu alongwith no.263-1/554/PM dated 02.04.2021 application of Deepak resident of Kot Dharmu. Applicant Satpal Sharma son of Hem Raj resident of Kot Dharmu has also given application to the office of Respected Inspector General of Police, Bathinda Range, Bathinda



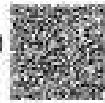
leveling allegations against Vipan Kumar etc. for committing cheating of Rs.10 lacs for providing job in the department of Food Corporation of India to his nephew Harwinder Sharma son of late Balvir Chand, resident of Bhopal Kalan. This application has been received to | SP vide letter no.237-2/233S dated 28.05.2022 of Office of respected SSP Sahib Mansa. During the inquiry it is found that earlier to this, applicants Jagsir Singh etc. and Arshdeep Singh resident of Kot Dharmu, Jagsir Singh resident of Matti, Lakhwinder Singh resident of Fatta Maloka, Harman Singh resident of Mansa Khurd, Gurpayar Singh resident of Kulrian, have filed applications through registered post to respected Inspector General of Police, Bathinda Range, Bathinda and senior Superintendent of Police, Mansa for registration of FIR under section 420, 467, 468, 471, 120-B of IPC against Vipan Kumar son of Mohan Lal resident of Model Town Bathinda, Jaswinder Singh @ Bunty son of Sewa Singh resident of Kot Dunna, Gurpreet Singh resident of Sangrur, Angrej Singh, Office Pipli Road, near Old Petrol Pump, Kurukshetra, Raj Rohti Delhi and Rohit Khan residents of Bodhgiya, (Jharkhand) for committing cheating of Rs.77 lacs by preparing fake documents, joining orders of General Manager, Food Corporation, Delhi in the name of providing job in Food Corporation of India. These applications have been marked to Incharge EO Wing, Mansa for inquiry and to report vide no.820-1-1816/PM dated 31.12.2020 and 820-1-1816/AP/M dated 11.01.2021 of office of Senior Superintendent of Police, Mansa and incharge EO Wing Mansa has marked these applications to SI Bhagwant Singh 1185/ Mansa. On 27.03.2021 as per statement of Kamaldeep Singh son of Leela Singh resident of Kot Dharmu and Kamaldeep Singh and Kanchandeep sons of Hem Raj, Deepak son of Satpal resident of Kot Dharmu and Gulshan Kumar son of Krishan Lal resident of Mansa as per Sl Bhagwant Singh 185/ Mansa and report no.01/5C/EOW dated 03.04.2021 of Incharge, Economic Offences Wing, Mansa. Sarabjit Singh PPS, Deputy Superintendent of Police (PBI), Mansa vide his report dated 05.04.2021 has recommended to send application



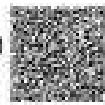
no.820-1-1816/PM dated 31.12.2022 and 820-1-1816/A/PM dated 11.01.2021 also to I SP for further inquiry, on which vide order of your office these applications have also received in this office for inquiry and report, regarding which inquiry is being conducted separately. On (01.12.2021) from the applicant party Arshdeep Singh etc. Leela Singh resident of Kot Dharmu had given one separate application against Gurcharan Singh son of Gurdyal Singh resident of Mansa for committing cheating of Rs.7 lacs in the name of providing job to his son Kamaldeep Singh in the department Food Corporation of India, this application was marked to I SP for inquiry vide no.46/2/159/PM dated 01.02.2021 of your office. During the inquiry I have joined the concerned into inquiry and got recorded their statements. On the basis of facts came into notice during the Inquiry of application given by Leela Singh, I SP vide inquiry report no.08/5C/SP/PBI/Mansa dated 01.04.2021 and on approval of respected Senior Superintendent of Police, Mansa FIR No.34 dated 01.04.2021 under section 420, 465, 467, 468, 471, 120-B of IPC was registered at police station City-2 Mansa against Gurcharan Singh son of Gurdyal Singh resident of Deep Chand Street, Ward no.14, Mansa, Vipan Kumar son of Mohan Lal resident of Model Town Bathinda, Jaswinder Singh son of Mewa Singh resident of Kot Dunna, Gurpreet Singh son of Baldev Singh resident of Kale Ke District Barnala. After giving of separate application by Leela Singh resident of Kot Dharmu father of Kamaldeep Singh from the applicant party Arshdeep Singh etc. against retired police officials Gurcharan Singh resident of Mansa, Arshdeep Singh etc. have filed one CRM-M-11504/2021 before the Hon'ble Punjab and Haryana High Court, Chandigarh and prayed to conduct fair Inquiry in the applications filed by them on 21.12.2020 (P-3), during the hearing of abovesaid numbered petition Sh. Gurwinder Singh Gill, Hon'ble Justice Punjab and Haryana High Court, Chandigarh while disposing of the above said numbered writ petition on 12.03.2021 directed respected SSP Sahib Mansa to conduct the inquiry of application dated 21.12.2020



(P-3) given by the petitioners as per law. From my inquiry conducted till today and from the statements it is found that applicant Jagsir Singh son of Bikkar Singh resident of Moosa, Kamaldeep Singh and Kanchandeep sons of Hem Raj, Deepak son of Satpal, residents of Kot Dharmu, Gulshan Kumar son of Krishan Lal resident of ward no. 16, Veer Nagar Mohalla, Mansa by filing separate applications requested to take action against only Gurcharan Singh son of Sh. Gurdyal Singh resident of Deep Chand Street, Ward no.14, Cremation ground Road, Mansa for committing cheating of Rs.7 lacs. As per my opinion I have conducted thorough inquiry of application no.46-2/159/PM dated 01.12.2021 given by Leela Singh son of Sikander Singh resident of Kot Dharmu, father of Kamaldeep Singh from the applicant party Arshdeep Singh and sent the inquiry report no. (08/5C/SP/PBI/Mansa dated 01.04.2021) on the basis of all evidences on the basis of which after approval of respected Senior Superintendent of Police FIR No.54 dated 01.04.2021 under section 420, 465, 467, 468, 471, 120-B of IPC was registered at Police Station City-2 Mansa against Gurcharan Singh son of Gurdyal Singh resident of Deep Chand Street, Ward no.14, Mansa, Vipan Kumar son of Mohan Lal resident of Model Town Bathinda, Jaswinder Singh son of Mewa Singh resident of Kot Dunna, Gurpreet Singh son of Baldev Singh resident of Kale Ke District Barnala and in my above said numbered inquiry report I have recommended to take action against Angrej Singh, office Pipli near Old Petrol Pump, Kurukshetra (Haryana) and Raj Rohti, Delhi and any other person if evidence comes on record against them. These applications also concerned to above said FIR and the one subject, therefore, as per my opinion separate inquiry of these applications is not valid. On 01.11.2021, then Senior Superintendent of Police, Mansa vide letter no.233/S, 488-91- 554/PM dated 01.11.2021 of his office sent the above said applications alongwith Inquiry report no.25, 26, 27, 28, 31, 34/5C/SP/PBI/Mansa dated 06.08.2021 for removal of documentary objections to the office of Sh. Rakesh Kumar PPS, then Superintendent of Police (PBI), Mansa. For



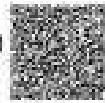
removal of the objections raised by the then Senior Superintendent of Police, Mansa the then Superintendent of Police (PBI), Mansa namely Sh. Rakesh Kumar, PPS while sending his report no.70/5C/SP/PBI/Mansa dated 08.11.2021 to your office has written to take action as per law after watching these applications during the investigation of case, FIR No.54 dated 01.04.2021, under section 420, 465, 467, 468, 471, 120-B of IPC, Police Station City-2. On 14.04.2022, you have ordered Sh. Rakesh Kumar, PPS the then Superintendent of Police (HQ), Mansa to discuss it and inquiry officer has discussed with you. On 11.07.2022, you have directed Superintendent of Police (HQ), Mansa to segregation the incident as per same/ different date, time and place. In compliance of your orders I have watched the report no.70/5C/SP/PBI/ Mansa dated 08.11.2021 of Rakesh PPS, the then Superintendent of Police (HQ), Mansa, application no.237-2/233S dated 28.05.2021 given by Satpal Sharma son of Hem Raj resident of Kot Dharmu, application no.138-2/488/PM dated 23.03.2021 given by Kanchandeep Singh resident of Kot Dharmu, application no.138- 2/489/PM dated 23.03.2021 given by Jagsir Singh resident of Moosa, application no. 139-2/490/PM dated 23.03.2021 given by Kamaldeep Singh resident of Kot Dharmu, application no.140-2/491/PM dated 23.03.2021 given by Deepak resident of Kot Dharmu and attached application no.263-1/554/PM dated 02.04.2021 given by Gulshan Sharma resident of Veer Nagar Mohalla, Mansa and regarding the application no.237-2/2335 dated 28.05.2021 given by Satpal sharam above and from the applicant party Satpal son of Inderjit and Kanchandeep son of Hem Raj residents of Kot Dharmu and Harwinder Sharma son of late Balvir Chand son of Keswa Nand and Paramjit Kaur wife of late Balvir Chand residents of village Bhopal Kalan, have been joined into Inquiry as per law and statements have been recorded which are attached with the application for perusal. Against the respondent party Vipan Kumar etc. FIR No.54 dated 01.04.2021 under section 420, 465, 467, 468, 471, 120-B of IPC has already registered at



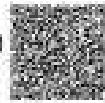
Police Station City-2 Mansa. From the statements recorded by me and from watching the above said numbered applications it is found that as per statements given in all these applications the type of crime in all these are same but in every respective cases date and time of occurrence is different-different, in every case a separate case is required to be registered. Therefore, as per your order in the above mentioned application separate reports are being prepared, the details of which are as under;- From the statements recorded during the inquiry of application and from watching the attached documents it is found that applicant Satpal resident of Kot Dharmu Is maternal uncle of victim Harwinder Sharma son of late Balvir Chand resident of Bhopal Kalan. Retired inspector Gurcharan Singh son of Gurdyal Singh resident of Deep Chand Street, Ward no.14, Cremation ground road, Mansa is married at village of applicant Satpal above, due to this reason they have good relations with each other. In the month of November 2019 above said Gurcharan Singh assured applicant's brother Hem Raj to provide job to son of Hem Raj namely Kamaldeep Singh in the department Food Corporation of India for Rs.7 lacs. Above said Hem Raj for providing job to his son Kamaldeep Singh and for the purpose of arrangement of Rs.7 lacs have taken Rs.5 lacs from the mother of victim Harwinder Sharma and his sister Paramjit Kaur resident of Bhopal Kalan and handed over to Gurcharan Singh above in the presence of witnesses and on 06.12.2019 above said Gurcharan Singh has given letter no. Esst.01 (Recruitment)/2018/2019 memo no.FCI/6114/CHATRA/2019 Employee no.FCICTR/66107801 to applicant's nephew Kamaldeep Singh for Joining at the post of AG III (Clerk) In the department of FCI and have sent Kamaldeep Singh to Chitra (Jharkhand) for training. Thereafter, above said Satpal has got agreed to get job for his son Deepak Sharma and Leela Singh resident of Kot Dharmu for his son Kamaldeep in the department of FCI by giving Rs.7-7 lacs and after arrangement of Rs.7-7 lacs they have handed over to Gurcharan Singh. Applicant's brother Hem Raj above for providing job to his



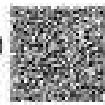
second son Kanchandeep Singh handed over Rs.7 lacs to Gurcharan Singh and Gurcharan Singh above has sent them to Barwala, District Hisar, Haryana. Thereafter, sister of applicant Satpal namely Paramjit Kaur above has also said her brother/ applicant Satpal above to talk with Gurcharan Singh above for providing job to her son Harwinder Sharma in the department FCI by giving money and Gurcharan Singh above has assured applicant Satpal above to provide job to his nephew Harwinder Sharma in the department of FCI and got introduced with his companion Vipan Kumar resident of Bathinda. Vipan Kumar above assured Harwinder Sharma that they have already provided job to many persons easily and said to provide job in the department of FCI to Harwinder Sharma for Rs. 12 lacs and at the last got agreed to provide job to Harwinder Sharma in the department of FCI for Rs.10 lacs. Sister of applicant namely Paramjit Kaur above arranged Rs.10 lacs from her saving amount and from Commission Agent Bittu Singla shop no.363, Grain Market, Mansa. Paramjit Kaur above on 22.08.2020 handed over Rs.2 lacs in cash to Vipan Kumar, his wife Veera Kaur and companions Jaswinder Singh @ Bunty son of Mewa Singh resident of Kot Dunna and Gurpreet Singh @ Kala son of Baldev Singh resident of Kale Ke at her house at village Bhopal Kalan in the presence of witnesses her brother Satpal and nephew Kanchandeep for getting job for her son in the department of FCI and Vipan Kumar etc. have assured applicant party to provide job to Harwinder Sharma in the department of FCI. On 28.08.2020, Vipan Kumar etc. in the presence of witness Satpal and nephew Kanchandeep handed over letter no. Esst. (Recruitment/2018/2019 memo No. 1905 Narela 2019 Employee No.FCDEL 88137844 regarding joining in the department of FCI and received balance amount of Rs.8 lacs in cash from applicant's sister Paramjit Kaur in the presence of above said witnesses Satpal etc. and have taken Harwinder Sharma to Narela, Delhi for training. Except applicant Satpal above, the above said facts have endorsed from the statements of Kanchandeep, victim Harwinder Sharma and Paramjit



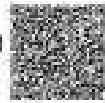
Kaur. As per statement of Harwinder Sharma on 03.11.2020, during training he got to know regarding the above said documents regarding his joining in the department of FCI being fake by going to the office of FCI at Noida and regarding this he has informed his maternal uncle/ applicant Satpal and in this regard son of applicant namely Deepak and nephews Kanchandeep, Kamaldeep and others have talked to Gurcharan Singh and demanded back the money, then Gurcharan Singh said the applicant party and others regarding committing cheating by Vipan Kumar son of Mohan Lal resident of Riot Victim Colony, Model Town, Bathinda, Quarter EW 890, Bathinda, Jaswinder Singh @ Bunty son of Sewa Singh, resident of Kot Dunna and Gurpreet Singh @ Kala son of Baldev Singh resident of Kale Ke, District Barnala, Angrej Singh Office, Pipll Road, Old Petrol Pump, Kurukshetra and Raj Rohti, Delhi. Gurcharan Singh for taking back money of sons and nephews of applicant and others and for his safe side has filed application no.820-1-1816/PM dated 31.12.2020 and 820-1- 1816/APM dated 11.01.2021 in the offices of respected Inspector General of Police, Bathinda Range, Bathinda and respected Senior Superintendent of Police, Mansa for registration of case under section 420, 467, 468, 471, 120-B of IPC against Vipan Kumar etc. above for committing cheating of Rs.7-7 lacs by preparing fake documents, joining order in the name of General Manager, Food Corporation, Delhi in the name of providing job in the Food Corporation of India, Delhl, but applicant's nephew Harwinder Sharma has not given the application. As per applicant Satpal above Gurcharan Singh has got filed the application against Vipan Kumar etc. regarding committing of cheating of Rs.10 lacs for providing job to his nephew Harwinder Sharma for his safety. From all the above mentioned facts it is found that respondent party Gurcharan Singh son of Gurdyal Singh resident of Deep Chand Street, Ward no.14, Cremation Ground Road, Mansa, Vipan Kumar son of Mohan Lal resident of Model Town, Riot Victim Colony, Bathinda, Jaswinder Singh @ Bunty son of Mewa Singh, resident of Kot Dunna, District



Barnala and Gurpreet Singh @ Kala son of Baldev Singh, resident of Kale Ke, District Barnala in connivance with each other by giving assurance to Harwinder Sharma nephew of complainant Satpal for providing job to him in the department of FCI, on 22.08.2020 received Rs.2 lacs from nephew of complainant Satpal son of Inderjit resident of village Kot Dharmu namely Harwinder Sharma son of Balvir Chand, resident of Bhopal Kalan and sister Paramjit Kaur in the presence of witnesses complainant Satpal and Kanchandeep above at the house of victim Harwinder Sharma above at his village Bhopal Kalan and on 28.08.2020 with intention to commit cheating handed over fake/ forged joining letter no.Esst. (Recruitment/2018/2019 Memo no. FCI/1905/Narela/2019 Employee no. ECIDEL/88137844 regarding joining in the department FCI at the post of AG III (Clerk) and received balance amount of Rs.8 lacs and on the basis of above mentioned fake/ forged document took him to Narela, Delhi for training. Applicant Satpal resident of Kot Dharmu and victim Harwinder Sharma and Paramjit Kaur residents of Bhopal Kalan through their application and statements made allegations against Veera Kaur wife of Vipan Kumar son of Mohan Lal resident of Model town, Riot Victim Colony, Bathinda also but till now no role of above said Veera Kaur in this matter has yet found. Even then on registration of FIR if any evidence comes on file against Veera Kaur wife of Vipan Kumar son of Mohan Lal resident of Model town, Riot Victim Colony, Bathinda regarding her connivance in this cheating, then action is required to be taken as per law. From my inquiry offence under section 420, 465, 467, 468, 471, 120-B of IPC is found to be made out against Gurcharan Singh son of Gurdyal Singh resident of Deep Chand Street, Mansa, Ward no.14, Cremation Ground Road, Mansa, Vipan Kumar son of Mohan Lal resident of Model Town, Riot Victim Colony, Bathinda, Jaswinder Singh @ Bunty son of Mewa Singh, resident of Kot Dunna, District Barnala and Gurpreet Singh @ Kala son of Baldev Singh, resident of Kale Ke, District Barnala if accepted then SHO Police Station Joga be directed



to register the FIR under section 420, 465, 467, 468, 471, 120-B of IPC against Gurcharan Singh son of Gurdyal Singh resident of Deep Chand Street, Ward no.14, Cremation Ground Road, Mansa, Vipan Kumar son of Mohan Lal resident of Model Town, Riot Victim Colony, Bathinda, Jaswinder Singh @ Bunty son of Mewa Singh, resident of Kot Dunna, District Barnala and Gurpreet Singh @ Kala son of Baldev Singh, resident of Kale Ke, District Barnala and to bring all the facts on file during the investigation. Report is presented. Sd/- Superintendent of Police (HQ), Mansa. DA Legal for opinion No.233/S dated 31.10.2022 Sd/- Senior Superintendent of Police Mansa. On which respected District Attorney (Legal) Mansa presented his report vide his report through memo no.147/2022/DA (Legal) dated 03.01.2023 the contents of which are as under, "Office of District attorney (Legal) Mansa. Legal opinion. Memo no.147/2022/DA (Legal) date 03.01.2023. Subject: Report regarding application given by Satpal Sharma son of Inderjit, resident of Village Kot Dharmu, District Mansa. Reference, inquiry report no.57E/5C/SP (HQ)/ Mansa dated 31.10.2022 of office of Superintendent of Police (HQ) Mansa. Attached statements of witnesses and documents have been watched thoroughly. As per my report on the basis of facts came in the inquiry report and as per the recommendations made by inquiry officer, Gurcharan Singh son of Gurdyal Singh resident of Deep Chand Street, Ward no. 14, Cremation Ground Road, Mansa, Vipan Kumar son of Mohan Lal resident of Model Town, Riot Victim Colony, Bathinda, Jaswinder Singh @ Bunty son of Mewa Singh, resident of Kot Dunna, District Barnala and Gurpreet Singh @ Kala son of Baldev Singh, resident of Kale Ke, District Barnala have prima facie committed the offence under section 420, 465, 467, 468, 471, 120-B of IPC. So, if accepted to you then SHO of concerned police station be directed to register the FIR against above mentioned persons under the above mentioned offences. Report is presented for relevant orders. Sd/- Harwinder Singh, District Attorney (Legal) Mansa date: 03.01.2023. Attached Original file, on which Respected SSP Sahib



Mansa has written that SHO Joga for N/A. Sd/- Senior Superintendent of Police, Mansa dated: 05.01.2023. On receiving the application above said FIR under above said offences was initiated to register against Gurcharan Singh son of Gurdyal Singh resident of Deep Chand Street, Ward no.14, Cremation Ground Road, Mansa, Vipan Kumar son of Mohan Lal resident of Model Town, Riot Victim Colony, Bathinda, Jaswinder Singh @ Bunty son of Mewa Singh, resident of Kot Dunna, District Barnala and Gurpreet Singh @ Kala son of Baldev Singh, resident of Kale Ke, District Barnala. On registration case file record has been completed. Case file alongwith original application alongwith inquiry reports have been handed over to ASI Gurmail Singh 159/ Mansa for further investigation. Copies of FIRs after preparation are being sent to Hon'ble Illaqa Magistrate Sahib and senior officers through post. PCR Mansa is being informed separately through W/M. close rapat no.46, time: 10:56 PM dated: 06.01.2023.'

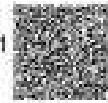
3. **Contentions**

On behalf of the petitioner

Learned counsel for the petitioner has argued that the petitioner has been falsely implicated in this case. He submits that there is delay of almost 2 ½ years in lodging the FIR. He has further argued that there is no money transaction between the complainant and the petitioner. The petitioner is behind the bars since 06.11.2023 and challan stands presented on 24.11.2023 and charges are framed on 03.06.2024.

On behalf of the State.

Learned State Counsel submits on instructions from Investigating Officer opposes the prayer for grant of bail on the ground that the petitioner is involved in other FIRs also but is not in a position to controvert the submissions made by counsel for the petitioner.

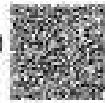


4. Analysis

From the above case it can be culled out that the role attributed to the petitioner is that he along with his co-accused committed fraud by receiving Rs.10,00,000/- from Paramjit Kaur and her son Harwinder Sharma (sister and nephew respectively of complainant Satpal) on the pretext of getting job to Harwinder Sharma in Food Corporation of India, moreso, the petitioner is behind the bars for last 08 months and 23 days; added with the fact that challan stands presented on 24.11.2023, charges have been framed on 03.06.2024 and out of total 17 prosecution witnesses, only 02 witnesses have been examined till date, which is suffice enough for this Court to infer that the conclusion of trial will take a long time for which the petitioner cannot be detained behind the bars for an indefinite period.

Reliance can be made upon the judgment of the Apex Court rendered in "***Dataram versus State of Uttar Pradesh and another***, 2018(2) ***R.C.R. (Criminal) 131***, wherein it has been held that the grant of bail is a general rule and putting persons in jail or in prison or in correction home is an exception. Relevant paras of the said judgment is reproduced as under:-

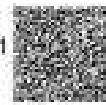
“2. A fundamental postulate of criminal jurisprudence is the presumption of innocence, meaning thereby that a person is believed to be innocent until found guilty. However, there are instances in our criminal law where a reverse onus has been placed on an accused with regard to some specific offences 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.

3. 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.

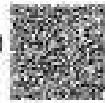
4. While so introspecting, among the factors that need to be considered is whether the accused was arrested during investigations when that person perhaps has the best opportunity to tamper with the evidence or influence witnesses. If the investigating officer does not find it necessary to arrest an accused person during investigations, a strong case should be made out for placing that person in judicial custody after a charge sheet is filed. Similarly, it is important to ascertain whether the accused was participating in the investigations to the satisfaction of the investigating officer and was not absconding or not appearing when required by the investigating officer. Surely, if an accused is not hiding from the investigating officer or is hiding due to some genuine and expressed fear of being victimised, it would be a factor that a judge would need to consider in an appropriate case. It is also necessary for the judge to consider whether the accused is a first-



time offender or has been accused of other offences and if so, the nature of such offences and his or her general conduct. The poverty or the deemed indigent status of an accused is also an extremely important factor and even Parliament has taken notice of it by incorporating an Explanation to section 436 of the Code of Criminal Procedure, 1973. An equally soft approach to incarceration has been taken by Parliament by inserting section 436A in the Code of Criminal Procedure, 1973.

*5. To put it shortly, a humane attitude is required to be adopted by a judge, while dealing with an application for remanding a suspect or an accused person to police custody or judicial custody. There are several reasons for this including maintaining the dignity of an accused person, howsoever poor that person might be, the requirements of Article 21 of the Constitution and the fact that there is enormous overcrowding in prisons, leading to social and other problems as noticed by this Court in *In Re-Inhuman Conditions in 1382 Prisons*, 2017(4) RCR (Criminal) 416: 2017(5) Recent Apex Judgments (R.A.J.) 408 : (2017) 10 SCC 658*

*6. The historical background of the provision for bail has been elaborately and lucidly explained in a recent decision delivered in *Nikesh Tara chand Shah v. Union of India*, 2017 (13) SCALE 609 going back to the days of the Magna Carta. In that decision, reference was made to *Gurbaksh Singh Sibia v. State of Punjab*, (1980) 2 SCC 565 in which it is observed that it was held way back in *Nagendra v. King-Emperor*, AIR 1924 Calcutta 476 that bail is not to be withheld as a punishment. Reference was also made to *Emperor v. Hutchinson*, AIR 1931 Allahabad 356 wherein it was observed that grant of bail is the rule and refusal is the exception. The provision for*



bail is therefore age-old and the liberal interpretation to the provision for bail is almost a century old, going back to colonial days.

7. However, we should not be understood to mean that bail should be granted in every case. The grant or refusal of bail is entirely within the discretion of the judge hearing the matter and though that discretion is unfettered, it must be exercised judiciously and in a humane manner and compassionately. Also, conditions for the grant of bail ought not to be so strict as to be incapable of compliance, thereby making the grant of bail illusory.”

Therefore, to elucidate further, this Court is conscious of the basic fundamental law that right to speedy trial is a part of reasonable, fair and just procedure guaranteed under Article 21 of the Constitution of India. This constitutional right cannot be denied to the accused as is the mandate of the Apex court in “**Hussainara Khatoon and ors (IV) v. Home Secretary, State of Bihar, Patna**”, (1980) 1 SCC 98. Besides this, reference can be drawn upon that pre-conviction period of the under-trials should be as short as possible keeping in view the nature of accusation and the severity of punishment in case of conviction and the nature of supporting evidence, reasonable apprehension of tampering with the witness or apprehension of threat to the complainant.

5. **DECISION:**

In view of the discussions made hereinabove, the petitioner is directed to be released on regular bail on his furnishing bail and surety bonds to the satisfaction of the trial Court/Duty Magistrate, concerned.



In the afore-said terms, the present petition is hereby allowed.

However, it is made clear that anything stated hereinabove shall not be construed as an expression of opinion on the merits of the case.

(SANDEEP MOUDGIL)
JUDGE

31.07.2024

Sangeeta

Whether reasoned/speaking: Yes/No

Whether reportable: Yes/No