

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

CRM-M-15190-2017

Date of decision: 2.11.2017

Daler Singh

...Petitioner

Versus

State of Punjab

...Respondent

**CORAM: HON'BLE MR.JUSTICE H.S.MADAAN**

Present: Mr.Parshant Bansal, Advocate  
for the petitioner.

Mr.Kirat Singh Sidhu, DAG, Punjab.

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**H.S. MADAAN, J.**

This petition under Section 438 Cr.P.C. for pre-arrest bail has been filed by the petitioner Daler Singh, an accused in FIR No.204 dated 31.8.2016, under Section 420 IPC read with Section 13 of Punjab Prevention of Human Smuggling Act, 2012 (added later on), registered at Police Station City, Rajpura, District Patiala.

Briefly stated, the facts of the case as per prosecution version are that complainant Gurkirat Singh son of late Sh.Sher Singh, resident of village Hadana, Tehsil and District Patiala submitted a complaint to Senior Superintendent of Police, Patiala contending therein that he wanted to go to Australia and accused promised to send him there on work permit visa on payment of Rs.10 lacs in advance; that amount included Rs.6,50,000/- as expenses for advance visa etc.; that on 2.11.2013,

complainant had given Rs.6,50,000/- and his passport to the accused and the accused had given an agreement in his own handwriting agreeing that if the complainant could not be sent to Australia, then his amount would be refunded. According to the complainant, he contacted the accused several times in connection with his migration to Australia but the accused put off the matter on one pretext or the other; that after some time accused had given photocopy of agreement letter and work permit asking the complainant to bring remaining money along with sweets since his visa was ready; that the complainant inquired from Embassy regarding his visa and was informed that visa and agreement were forged; that then he accompanied by some other persons met the accused confronting him with the factual position; that accused tried to put off the matter and had issued two cheques from his separate accounts for Rs.2 lacs and Rs.1 lac, respectively, whereas Rs.3,50,000/- were not returned stating that the same had already been spent by him, however, when the complainant presented the cheques in the bank, those were dishonoured due to insufficient funds; that thereafter, the accused did not return the amount despite repeated demands by the complainant. On the basis of such complaint, formal FIR was registered.

On registration of formal FIR, apprehending his arrest in this case, the petitioner had approached the Court of Sessions seeking grant of pre-arrest bail by filing an application. His such application had been assigned to learned Additional Sessions Judge, Patiala, who vide order dated 13.10.2016 dismissed the same, as such the petitioner has approached this Court asking for similar relief.

Notice of the petition was given to respondent – State, which put in appearance through counsel and State counsel submitted that the petitioner was granted interim bail but he has not cooperated with the investigating agency and has not got the recovery effected.

I have heard learned counsel for the parties besides going through the record.

In the status report submitted by Deputy Superintendent of Police, Rajpura, District Patiala, the details of the other criminal cases in which petitioner/accused was involved along with status thereof are as under:

| Sr.No. | FIR No./Date, offence & P.S.                                                                                                      | Status of the case                                                                   |
|--------|-----------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------|
| 1.     | FIR No.286 dated 24.11.2009, under Sections 341, 323, 506, 427 IPC, P.S. City, Rajpura                                            | Acquitted on 27.2.2013 on the basis of compromise.                                   |
| 2.     | FIR No.248 dated 27.9.2012, under Section 420 IPC, P.S. City, Rajpura.                                                            | Cancellation report was filed on 24.1.2013 by the police on the basis of compromise. |
| 3.     | FIR No.135 dated 19.6.2014, under Sections 323, 380, 506, 34 IPC, P.S. City, Rajpura.                                             | Cancellation report was filed on 9.11.2014 by the police on the basis of compromise. |
| 4.     | FIR No.177 dated 30.5.2016, under Sections 406, 420 IPC, P.S. Ambala Cantt.                                                       | The case is under investigation with the Police of P.S. Ambala Cantt.(Haryana).      |
| 5.     | FIR No.236 dated 12.10.2016, under Sections 420 IPC, 13 Punjab Human Trafficking Act, 2012, amended Act 2014, P.S. City, Rajpura. | The case is under investigation.                                                     |

The very fact of registration of these criminal cases go to show that the criminal bent of mind of the petitioner and that he is a habitual offender. Out of the six cases registered against him, he is shown to have compromised the matter in three cases but that does not dilute his

guilt. The pre-arrest bail is a relief which is not to be granted in routine but in exceptional circumstances. The antecedents of the person seeking such relief are to be kept in mind while considering the question whether the relief is to be granted or refused. The accused is shown to have fleeced the complainant of an amount of Rs.6,50,000/- giving him allurements of ensuring his migration to Australia without meaning to do so and rather showing forged travel documents to the petitioner. His custodial interrogation appears to be necessary for complete and effective investigation. It is well settled that custodial interrogation is more elicitation oriented since a person, who is couched in comparative safety of pre-arrest bail would certainly not disclose all the facts within his knowledge which would be inculpatory for him. In case custodial interrogation of the petitioner is denied to the investigating agency that would leave many loose ends and gaps in the investigation affecting the investigation being carried out adversely, which is not called for.

Thus finding no merit in the petition, the same stands dismissed.

2.11.2017  
Brij

(H.S.MADAAN)  
JUDGE

**Whether reasoned/speaking : Yes/No**

**Whether reportable : Yes/No**