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

CRM-M-23668 of 2017

Date of decision: September 21, 2017

Anil Kumar

.....Petitioner

Versus

State of Punjab

.....Respondent

CORAM: HON'BLE MR. JUSTICE A.B. CHAUDHARI

Present: Mr. R.K. Bajaj, Advocate for the petitioner.

Mr. Ramandeep Sandhu, Sr. DAG Punjab.

Mr. Dushant Sachdeva, complainant present in person.

A.B. CHAUDHARI, J (Oral)

Heard learned counsel for the rival parties.

Petitioner seeks grant of anticipatory bail in FIR No.23 dated 16.02.2017, under Sections 406, 420 of Indian Penal Code, 1860 and Section 13 of Punjab Travel Profession Regulation Act, 2014, registered at Police Station Division No.7, Jalandhar.

Learned counsel for the petitioner submits that the wife of the petitioner, who is according to the prosecution, is the main accused, has already been in judicial custody. The petitioner is the husband and has nothing to do with the offences in question.

I have perused the FIR as well as impugned order and reasons therein. The trial Court has recorded following reasons in the impugned order:-

“5. After hearing the contentions of both the sides and

having gone through the entire record carefully, it is found that instant bail application merits dismissal and applicant-accused Anil Kumar is not entitled to concession of anticipatory bail. As per the prosecution version, applicant-accused along with his wife took Rs.8,65,000/- from complainant for getting work permit visa, but neither the work permit visa was arranged nor refunded the money to the complainant. Thus, the allegations against applicant-accused are very serious in nature. A huge amount has been received by the applicant-accused.....”

Complainant-Dushant Sachdeva is present in person before the Court and he is heard.

The plea raised by the learned counsel for the petitioner that the petitioner is working in Army and is in the Army Hospital and that he has nothing to do with the offences in question cannot be accepted. The FIR clearly shows that the husband and wife both conspired and took the money from them. Following portion from Page 15 of the petition is reproduced hereunder:-

“And the accused and his wife Jyoti had taken Rs.350000/- and against by Anil Kumar he had taken amount from Dushant Sachdeva for sending him abroad. And they have accepted in the statements that they will sent him abroad with in 15 and 20 days. In case he fail to send the complainant abroad in that event legal action will be taken against them from the investigation. Jyoti has admitted in her statement that ruban is not an agent and he has also given money to them for sending abroad.....”

The plea that the husband has nothing to do with the wife in the matter of commission of offences in question can hardly be accepted. On the contrary, any person could draw an inference that both of them had conspired and collected money from the poor complainant, who has practically lost his entire deposits or as the case may be. Petitioner who is working in Army has not behave responsibly. Despite his position, this Court had granted *ad interim* order to the petitioner with a view to find out whether he would make arrangements to pay back money to the poor complainant. The matter was adjourned on 04.09.2017 again to take instructions. However, learned counsel for the petitioner submits that the petitioner says that he has nothing to do with the offences in question and therefore, there is no question of repayment of money. I think, there is prima-facie case against the petitioner as the petitioner and his wife both cheated poor people.

In that view of the matter, this petition stands dismissed.
Interim order dated 13.07.2017 is vacated.

(A.B. CHAUDHARI)
JUDGE

September 21, 2017

mahavir

Whether speaking/ reasoned: Yes/No

Whether Reportable: Yes/No