

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

CRM-M-26452 of 2017

Date of decision: 10.8.2017

Nitish Dhiman

...Petitioner

Versus

State of Haryana

...Respondent

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

Present: Mr. Karan Singh, Advocate
for the petitioner.

Mr.Gaurav Bansal, AAG, Haryana.

H.S. MADAAN, J.

The instant petition under Section 438 Cr.P.C. for pre-arrest bail has been filed by petitioner Nitish Dhiman, an accused in FIR No.89 dated 25.4.2017 for offences under Sections 406, 420, 506, 120-B IPC, registered with Police Station Chhappar, District Yamuna Nagar.

Briefly stated, the facts of the case as per prosecution version are that FIR in question was registered on the basis of statement of complainant Amrik Singh son of Jeet Singh, resident of village Daulatpur in which he had alleged that brother of complainant namely Kuldeep Singh is an educated young boy, who was unemployed; that Nitish

Dhiman was known to family of complainant and in December, 2015, he (Nitish Dhiman) told the complainant that he had come from England and knew the agents, who could manage migration for the persons; that he had repeated that he would send brother of complainant namely Kuldeep Singh to Germany on work permit and would arrange a good job for him as early as possible; that Nitish Dhiman had demanded a sum of Rs.12 lacs for that purpose; that the complainant was taken in by said representation made by accused and became ready to send his brother Kuldeep abroad; that in January, 2016, applicant, his brother who claimed himself to be professor of JMIC Radaur as well as his brother told the complainant to give Rs.1 lac and passport besides copies of certificates etc. to start the process for sending Kuldeep Singh abroad; that amount was accordingly given to the accused along with certificates of Kuldeep Singh and copy of passport; that in the last week of 2016, accused No.1 contacted the complainant telling that file for sending his brother abroad was ready and that they would get his visa prepared besides getting work permit and demanded money for that; that in February, 2016 by selling their land and by collecting the money from house, a sum of Rs.6 lacs was given by the complainant to accused No.1 in village Daulatpur in front of Bhag Singh son of Niranjana Singh, resident of Daulatpur and other family members; that in March, 2016 brother of the complainant was called to Delhi Airport and when said Kuldeep Singh reached there, accused No.1 gave him ticket of Moscow(Russia); that when Kuldeep Singh objected that they had a deal to send him to Germany along with work permit, then accused No.1 informed that he would get the ticket and work permit for

Germany after reaching Moscow; that he further represented that their agent would meet him in Russia and he will further give him work permit and he will send him to Germany; that in Russia Kuldeep Singh came across a man of accused, who kept Kuldeep Singh in his farm; that accused again demanded Rs.3 lacs to send Kuldeep Singh to Germany. As a matter of fact, neither Kuldeep Singh was sent abroad nor money paid by the complainant was returned, in that way the accused have committed fraud with him to the extent of Rs.12 lacs.

After registration of the FIR, apprehending his arrest in this case, Nitish Dhiman accused had approached the Court of Sessions Judge Yamuna Nagar at Jagadhri for grant of pre-arrest bail but his such application was dismissed by the Court learned Sessions Judge, Yamuna Nagar at Jagadhri vide order dated 5.7.2017, as such he has approached this Court asking for similar relief.

Notice of the petition was given to respondent – State and State is being represented through Assistant Advocate General, Haryana.

I have heard learned counsel for the parties besides going through the record and I find that there is no merit in the petition.

The petitioner is shown to have given allurement to the complainant for sending his brother Kuldeep Singh abroad and fleeced from him lacs of rupees without sending his brother to the promised land and ensuring his proper settlement there. The intention of the petitioner seems to be dishonest right from beginning. Though counsel for the petitioner has argued that petitioner has not committed any offence and he has been wrongly involved in this case, he had merely introduced Kuldeep

Singh an old acquaintance with Inderjit Singh Ladwa and except that he has no role to play in the entire episode and that Inderjit Singh had send Kuldeep abroad on tourist visa for which petitioner had not received any money on behalf of Inderjit Singh. He had simply introduced Inderjit Singh to Kuldeep Singh in good faith.

On the other hand, learned State counsel vehemently argued that it is the petitioner Nitish Dhiman, who had cheated the complainant of lacs of rupees promising to send his brother Kuldeep Singh abroad but actually not done so. He had also obtained passport, certificates etc. of Kuldeep Singh, therefore his custodial interrogation is necessary to effect the recovery of money, passport and certificates of Kuldeep Singh as well as to unfold the complete story. A prayer for dismissal of the petition has been made.

After hearing the rival contentions of the parties, I find that the allegations against the petitioner are quite serious of having fleeced the complainant of lacs of rupees on a false pretext and then neither returning the money nor ensuring migration and settlement of Kuldeep Singh abroad. The investigation is stated to be going on. Admittedly 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.

10.8.2017

Brij

(H.S.MADAAN)

JUDGE

Whether reasoned/speaking : Yes/No

Whether reportable : Yes/No