

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

**CRM-M-8145-2017
Date of decision :25.09.2017**

Gurvinder Singh

..... Petitioner

Versus

State of Punjab

..... Respondent

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

Present : Mr. R.S. Rana, Advocate
for the petitioner.

Mr. K.S. Aulakh, DAG, Punjab.

H.S. MADAAN, J.

This application for pre-arrest bail has been filed by Gurvinder Singh an accused in FIR No.20 dated 12.02.2017 under Sections 420, 406 IPC registered at Police Station Phagwara City, District Kapurthala.

Briefly stated the facts of the case as per prosecution story are that FIR in question was lodged on the basis of written complaint submitted by complainants Chamkaur Singh and Ranjit Singh addressed to SSP Kapurthala, in which they contended that Gurvinder Singh is working as travel agent for sending people abroad; that said Gurvinder Singh gave them

allurement of sending them to Australia and New Zealand on work permit.; that they fell in the trap and the bargain was struck at ₹2 lacs per person; that Gurvinder Singh received their passports and then showed them photocopies of Visa asking them to pay ₹4 lacs each in advance; that the money was accordingly handed over by the complainants to Gurvinder Singh in the presence of Davinder Singh son of Darshan Singh resident of Gelran District Jalandhar; that Gurvinder Singh demanded ₹5 lacs each more for the purpose of purchasing air tickets; that the complainant accordingly gave said amount to him and his wife Dolly along with their minor child had came to house of complainant and had taken the amount from them; that an agreement dated 24.12.2014 was written, such accused took the complainants to Delhi, however, he harassed them for 3 / 4 days and then sent them back; that the visas on being checked came out to be fake; that according to the complainants Gurvinder Singh had received ₹9 lacs each from them i.e. ₹18 lacs committing fraud and cheated them by not sending them abroad rather showed them photocopy of fake visas; that the matter was enquired into, Dolly wife of Gurvinder Singh was found to be innocent whereas allegations against Gurvinder Singh were found to have substance, as such, formal FIR was registered.

Apprehending his arrest in this case, he had approached Court of Sessions for grant of pre-arrest bail, but was unsuccessful there, therefore, he has come to this Court seeking similar relief. Notice of the petition was given to the State, which has put in appearance.

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

It may be mentioned here that on March 10, 2017, learned

counsel for the petitioner had contended that only allegations against the petitioner – Gurvinder Singh, who is R.M.P. is that out of the disputed amount for facilitating the migration of the complainants to abroad, he has received ₹2.50 lacs and that regarding which an agreement has already been executed for return of the amount and has relied on Annexures P-4 and P-5 to that effect, vide which undertaking had been given to return the balance amount. Considering that notice of motion was issued and interim bail was granted to the petitioner. However, the petitioner had joined the investigation but had not cooperated with the investigating agency no amount is shown to have been paid to the complainant party, the allegations against the petitioner are quite serious that he duped innocent persons of huge amount of lacs of rupees on allurements of managing their migration abroad but then showed them fake visas not sticking to the promise made by him with the complainants. Such type of allegations cannot be taken lightly.

There is a strong tendency amongst people of Punjab to migrate abroad in search of greener pastures and to fulfil that desire they can go to any extent. The wily and cunning persons take advantage of that fact posing as travel agents and fleecing innocent persons of substantial amounts of money selling them dreams of their migration. Many travel agents adopt very dubious and dangerous means for taking people abroad in the process quite often many casualties take place. Such type of elements have to be dealt with sternly. Furthermore, people repose faith in the persons, who promise to ensure their migration abroad and rarely ask for any receipt etc. after making payment so demanded and depositing the passport.

In a citation **State Represented by the C.B.I. vs. Anil**

Sharma, 1997(4) RCR (Criminal) 268, it was observed that *custodial interrogation is qualitatively more elicitation orientated than questioning a suspect who is on anticipatory bail.*

At this stage, question to be decided is that as to whether pre-arrest bail is to be granted or not. The truthfulness of the allegations in the FIR is not to be determined by holding a mini trial and the allegations are to be taken as such. Pre-arrest bail is a relief which is not to be granted just at the asking of an accused in routine manner but in exceptional circumstances. Its purpose is not to screen the criminals from legal action and to save them from custodial interrogation which being more elicitation-oriented, result in the extraction of the important information from mouth of a criminal. Custodial interrogation of the petitioner is necessary for proper and effective investigation. In case such custodial interrogation is denied to the investigating agency, that will leave many loose ends and loopholes, adversely affecting the investigation which is uncalled for. Thus finding no merit in the petition, the same stands dismissed.

25.09.2017

Gaurav Sorot

**(H.S. MADAAN)
JUDGE**

1. Whether reportable? **No**
2. Whether speaking / reasoned? **Yes**