$~14

* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

\+ BAIL APPLN. 2249/2016

MOHINDER ..... Petitioner

Through: Counsel for petitioner (Appearance not given.)

versus

STATE ..... Respondent

Through: Mr. Ashish Dutta, APP for State with SI Udham, PS Bindapur.
Mr. N.K. Aggarwal, Advocate for complainant.

CORAM:
HON'BLE MS. JUSTICE ANU MALHOTRA

<u>O R D E R</u>

% **09.01.2018**

The status report has been submitted by the State.

Arguments addressed on behalf of either side.

Vide the present petition, the petitioner seeks grant of anticipatory bail submitting to the effect that the applicant has himself been cheated by one Abhay Parekh who has taken a sum of Rs. 6,50,000/- from him to send him to the Republic of Cyprus Europe for a job.

On behalf of the State and the complainant, it has been submitted that proceedings under Section 156 (3) of the Cr. P.C. have been initiated on the basis of the complaint that had been made by the complainant to the effect that the applicant herein/ the accused who was a friend of the complainant had promised for arranging a job for the complainant abroad and asked the complainant for his passport for necessary formalities and demanded a sum of Rs. 3,50,000/- from the complainant and had also told the complainant that he would get him a job arranged in Europe as a consequence of which on 13.08.2016 the complainant had handed over his passport to the accused and also given him a sum of Rs. 20,000/- in cash as demanded by him and that the applicant provided an account bearing no. 183905500323 of ICICI Bank to deposit the balance in the same and that the applicant in order to create good faith in the complainant also sent him an offer letter and appointment letter in the name of the complainant, pursuant to which the complainant had deposited the balance amount in the account number provided by the applicant and that though the applicant had informed the complainant of his ticket having been arranged for 19.08.2016 at 4.40 AM and had informed that his passport would be brought to the airport, with the visa, air tickets having been sent to the complainant through Whatsapp on 19.08.2016, the applicant switched off his mobile phone and did not answer the complainant's calls and messages, pursuant to which the FIR 592/2016 under Section 420 of Indian Penal Code, 1860 , PS Bindapur dated 13.09.2016 was registered on the basis of the directions dated 07.09.2016 of the MM, Dwarka Court under Section 156(3) Cr.P.C.

Inter alia the status report indicates that the applicant did not join the investigation initially, as a consequence of which the first anticipatory bail application had been declined by the Sessions Court and that subsequently the applicant had filed an application in this Court wherein he had been called upon to join the investigation and also informed the Court that he had been cheated by one Mr. Abhay Parekh whom he hadn't met and was in touch only on the mobile phone and that he had received all documents, i.e.

Job offer letter, Work permit, appointment letter etc. for himself and complainant through email from Abhay Parekh who had further transferred all these documents/images to Mukesh Sharma through Whatsapp and also deposited Rs. 3,00,000/- into the account no. 20340304819 of SBI Bank as provided by Abhay Parekh.

The verification report indicates that the CDRs of the phone numbers verified from the respective mobile service providers were analyzed and the last call is indicated to have been made by the applicant through mobile number 7291970112 to Abhay Parekh on mobile number 7043918477 on 18.08.2016. The email and screenshots have also been investigated by the Investigating Agency. It has also been submitted through the status report that the work entry permits were issued in the name of the applicant and the complainant were found to be forged as per the report of Cyprus High Commission and the link *www.egovt-cy.org* was also found to be counterfeited. However, the transactions in relation to the deposit of amount of Rs. 3,00,000/- into the SBI account no. 20340304819 and the deposit of a sum of Rs. 3,50,000/- into the account no. 183905500323 of the ICICI Bank who were found to be genuinely made and furthermore, the address mentioned as D-201, Kanha heights near MM Vohra Showroom Vadodara, Gujarat is stated to be the address of Abhay Parekh which has been raided and Abhay Parekh was not found there and it is informed by neighbours that he is not residing at the given address.

The Investigating Officer in reply to a specific court query states that this address was ascertained from the bank account of Abhay Parekh and also from the CDR details. It has also been reported that the account of Abhay Parekh has since been frozen. It has also been stated that the shipment sent by the applicant to Abhay Associates as per the courier report is indicated to have been delivered to Abhay Associates on 13.08.2016.

On behalf of the respondent no. 2, it has been submitted that the original passport had been handed over to the petitioner qua which it has been submitted on behalf of the petitioner that the petitioner had sent the same to Abhay Parekh along with his own passport also and the Investigating Officer states that though the passport is not mentioned, it has been mentioned that some documents were delivered to Abhay Associates as per the courier report.

As per the status report put forth by the State, the stated Abhay Parekh is reported to have been declared a proclaimed offender already. The draft charge-sheet is reported to be under scrutiny.

On behalf of the State and the complainant the application has been opposed, submitting *inter alia* to the effect that the applicant has been involved in the commission of the alleged offence of cheating the complainant in duping him to make a payment of Rs. 3,50,000/- and a further sum of Rs. 20,000/- for arranging job in Europe.

Reliance has *inter alia* only been placed on behalf of the complainant on conversations between the mother of the complainant and the respondent no. 2 in relation to which the Investigating Officer in reply to a specific Court query affirms the fact of such conversations between the mother of the complainant and the respondent no. 2 which he submits were verified during the course of investigation.

On a consideration of the submissions made by either side and taking into account the conversations between the petitioner and the mother of the complainant and also the status report on the record which indicates also as per the conversations between the mother of the complainant and the applicant/petitioner that the applicant-petitioner has previously also travelled abroad to Malaysia and has specifically stated in his conversations that he was making arrangements through an agent, the applicant also having stated to have been deposited the amount into the account of Abhay Parekh, which person by the name Abhay Parekh is apparently absconding, as the applicant is also indicated to have informed the complainant of his ticket having been made ready for the date 19.08.2016 and having also sent the copies of the VISA and air tickets to the complainant and having thereafter switched off his mobile phone on 19.08.2016 and having not answered to the calls and messages of the complainant, the complicity of the applicant in the instant case cannot prima-facie at this stage be overlooked.

There is no ground for granting anticipatory bail. All interim protections granted are withdrawn.

ANU MALHOTRA, J

JANUARY 09, 2018
Neha Chopra