

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

212

CRM-M-36062-2019 O & M)
Date of Decision:19.09.2019

Kuljeet Singh and another

...Petitioners

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MR. JUSTICE MANOJ BAJAJ

Present: Mr. K.S. Bal, Advocate
for the petitioners.

Mr. Hittan Nehra, Addl. A.G., Punjab.

Mr. Vaibhav Narang, Advocate
for the complainant.

MANOJ BAJAJ, J.

Petitioners have filed this petition under Section 439 of the Code of Criminal Procedure for grant of regular bail in case FIR No.276 dated 05.11.2015, under Sections 420, 120-B IPC, 1860 and Section 13 of the Punjab Prevention of Human Smuggling Act, 2012, registered at Police Station Sultanwind, District Amritsar.

The FIR was registered on the basis of complaint given by the complainant on the allegations that the accused received a sum of ₹20 lacs on the pretext of his son sending abroad. The amount was paid in April-June

2015. It was further narrated in the FIR that since the promise was not kept,

upon demand the said amount was returned by issuing different cheques in favour of the complainant by both the accused persons (petitioners). The said cheques were dishonored in August, 2015. However, the FIR was lodged in November, 2015 on the ground that the accused have committed the offence of cheating.

Learned counsel for the petitioners contends that the complainant had himself given two addresses of the petitioners i.e. of Amritsar and New Delhi. However, the petitioners, who were residing at New Delhi were never made aware of this FIR and the proceedings arising out of it. According to him, petitioners were declared proclaimed offenders on 02.06.2016 without their being any effective service upon them. He submits that the petitioners were arrested on 14.07.2019 and are in custody. The investigation of the case is complete as final report was submitted on 08.03.2019.

On the other hand, learned counsel for the complainant has opposed the prayer on the ground that the petitioners were proclaimed offenders and have not returned the amount. According to him, the cheques were dishonoured, therefore, it is evident that issuance of cheques amount to the admission on their part of having received the amount from the complainant. However, it is not disputed that no summons or warrants were issued to serve the accused persons at their Delhi address, as the entire exercise of service was focused at the address in Amritsar.

Considering the above, custody of the petitioners as well as the fact that the offences are triable by Magistrate, further detention of the petitioners may not be justified. Therefore, without meaning any expression

on the merits of the case, it is ordered that the petitioners be released on regular bail subject to their furnishing requisite bail/surety bonds to the satisfaction of the trial Court concerned.

The petition is allowed.

19.09.2019

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(MANOJ BAJAJ)
JUDGE

Whether Speaking/Reasoned: Yes/No

Whether Reportable : Yes/No