In the High Court for the States of Punjab and Haryana
At Chandigarh

CRM-M-57357-2018 (O&M)
Date of Decision:-26.3.2019

Rajinder Mann … Petitioner

Versus

State of Punjab ... Respondent

CORAM: HON'BLE MR. JUSTICE GURVINDER SINGH GILL

Present:- Mr. Mohit Garg, Advocate for the petitioner.

Mr. Randhir Singh Thind, DAG, Punjab.

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GURVINDER SINGH GILL, J.(Oral)

The petitioner seeks grant of anticipatory bail in respect of a case registered against him FIR No.0066 dated 6.4.2018 at Police Station City Kharar, Tehsil and District SAS Nagar, Mohali under Sections 406 and 420 of Indian Penal Code, 1860 and Sections 24 of Immigration Act.

The FIR was lodged at the instance of Sunny Kumar, wherein it has been alleged that in the year 2014, he intended to go to 'Canada' and his cousin telephonically informed him that Rajinder Mann, who is his cousin, being son of his maternal uncle, sends persons to 'Canada' and arranges for a VISA and that the total expenditure would be ₹16 lacs. The petitioner thereafter contacted Rajinder Mann and handed over his passport and other documents, who told him that they would show the same to their boss Karan Kapoor. After few days Rajinder Mann informed the complainant that a VISA for two years would be arranged and being taken in by the said representation, the complainant went to the house of Rajinder Mann, pursuant to his telephone call dated 22.8.2014 and handed over an amount of ₹16 lacs. However, the VISA was not arranged by the accused and subsequently upon the complainant demanding his money back, Rajinder Mann returned back an amount of ₹8 lacs, out of the received amount of ₹16 lacs and thereafter gave a cheque for an amount of ₹1 lac, which was also encashed. It is further alleged that Rajinder Mann got two more cheques issued from Karan Kapoor for an amount of ₹5 lacs and of ₹1 lac, respectively, but the same upon presentation were dishonoured.

The learned counsel for the petitioner has submitted that he had infact taken the amount on behalf of Karan Kapoor, who was into business of sending people abroad and that infact it is Karan Kapoor, who had defrauded the complainant and immediately when the petitioner came to know about the fraud, he did not pass on the amount, which was lying with him i.e. an amount of ₹8 lacs and returned back the same to the complainant.

The learned counsel for the petitioner has submitted that infact he tried his level best to get the balance amount returned to the complainant from Karan Kapoor and also instituted a complaint dated 29.12.2015 (Annexure P-2) against Karan Kapoor, which would show the *bona fides* of the petitioner.

Opposing the petition, the learned State counsel has submitted that the complainant had infact met the petitioner only and had handed over the entire amount to the petitioner and in these circumstances it is the petitioner, who is liable for having defrauded the complainant and does not deserve the concession of anticipatory bail.

Having heard the learned counsel for the petitioner and also the learned State counsel and bearing in mind the fact that it is the case where the petitioner had returned back the amount of ₹8 lacs in the year 2014 itself, when the complainant was not issued a VISA and had infact also instituted a complaint against co-accused Karan Kapoor, who is stated to be into business of arranging VISA, in my opinion, it is a fit case for grant of anticipatory bail. The petition, as such, is accepted and the interim directions issued by this Court vide order dated 19.12.2018 are hereby made absolute subject to the condition that the petitioner shall join investigation as and when called upon to do so and cooperate with the Investigating Officer and shall also abide by the conditions as provided under Section 438 (2) Cr.P.C.

The present petition stands accepted accordingly.

26.3.2019 **(Gurvinder Singh Gill)**
pankaj **Judge**

Whether speaking /reasoned Yes / No
Whether Reportable Yes / No