

THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M-9264-2020 (O&M)

Date of Order: 14.08.2020

Parvinder Singh and another

...Petitioners

Versus

State of Haryana

..Respondent

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. Abhilaksh Grover, Advocate,
for the petitioners.

Mr. Chetan Sharma, AAG, Haryana

Mr. Manish Soni, Advocate,
for the first informant/complainant.

ANIL KSHETARPAL, J.

The petitioners have filed the present petition under Section 438 of the Code of Criminal Procedure for grant of pre-arrest bail in a criminal case arising from FIR No.0061, dated 15.02.2020, registered under Section 406/420 IPC, at Police Station City Naraingarh, District Ambala.

In a nutshell, the case of the prosecution is that the first informant alleges that the petitioners are residents of the same village. They offered to help the first informant to settle permanently in Canada for which arrangement of Rs.15-20 lacs has to be made. They claim that they are known to one woman in Chandigarh, who can manage VISA. On which, the first informant on various occasions paid the amount as agreed.

Hearing of the case was held through video conferencing on account of restricted functioning of the Courts.

Learned counsel for the petitioners has contended that in fact the petitioners have also been duped by the aforesaid lady, namely, Neha Bhagotra (in the FIR referred to as Shikha @ Heena).

Keeping in view the aforesaid contention, on 11.06.2020, the following order was passed:-

“CRM-13143-2020

Application is allowed.

Documents attached thereto are taken on record.

Main case

Heard learned counsels representing the petitioners, first informant as well as the State.

Learned counsel for the petitioners contends that the petitioners are residents of the same village as is the first informant. He submits that the petitioners have also been duped by Shikha @ Hina. He further submits that the Prosecuting Agency has failed to take steps to secure the presence of Shikha @ Hina.

On the other hand, learned counsel for the State prays for time to seek instructions.

It may be noted here that FIR is dated 15.02.2020. A period of approximately four months has elapsed since the FIR was registered.

Keeping in view the aforesaid facts, State of Haryana is called upon to file a detailed reply in response to the petition.

Adjourned to 18.06.2020.

In the meantime, in the event of arrest, the petitioners shall be released on interim bail subject to furnishing personal bonds and surety to the satisfaction of Arresting/Investigating Officer. However, the petitioners shall join the investigation as and when called upon to do so and shall abide by the conditions as provided under Section 438(2) Cr.P.C.”

Thereafter, the case was adjourned to 02.07.2020.

On 02.07.2020, finding *prima-facie* that the reply filed by the respondent is not appropriate, the Superintendent of Police, Ambala, was

directed to remain present through Video Conferencing on 08.07.2020.

On 08.07.2020, Mr. Abhishek Jorwal, IPS, Superintendent of Police, Ambala, appeared through video conferencing and was impressed upon to expedite the investigation while adjourning the matter to 29.07.2020.

On 29.07.2020, counsel appearing for the State of Haryana made a statement that the main accused Neha Bhagotra was arrested and released on bail by the Trial Court on the basis of some settlement. *Prima-facie* the aforesaid information was abnormal. Hence, the Superintendent of Police, Ambala, was again directed to file status report.

It may be significant to note here that in the previous status report dated 17.06.2020, it was disclosed that the Investigating Officer searched the co-accused Shikha @ Heena but her address was not available. In the status report filed on 18.08.2020, it has been disclosed as under:-

“4. That the local police was taking keen interest to arrest the main accused Neha Bhagotra @ Heena @ Shikha and for this purpose, the IO on 09.07.2020 and 11.07.2020 raided the possible residence of main accused in the area of Sector 39, 40, 47-A, Kharar and Mohali but the main accused could not arrested. However, on 13.07.2020, the IP with the help of lady police officials apprehended Neha Bhagotra @ Heena @ Shikha d/o late S. Bharat Bushan r/o H.No.106, Paradise Home Apartment, Sector-125, Sunny Enclave, Kharar, Mohali (presently r/o # 629, Sector 40-A, Chandigarh). The accused was joined in the investigation and questioned and thereafter, she was formally arrested and was got medico-legally examined including COVID-19 test and was taken to Women Police Station, Naraingarh and her custody was handed

over to SHO WPS, Naraingarh.

5. That on 14.07.2020, the IO again joined co-accused Neha Bhagotra @ Heena @ Shikha in the investigation and interrogated and during interrogation, the accused suffered disclosure statement about her involvement in commission of present crime along with co-accused Rajan and Parvinder Singh (Petitioners) and had disclosed that co-accused Parvinder Singh and Rajan (Petitioners) had taken Rs.3 lacs as their share from the cheated amount. She further disclosed that Rs.10.5 lacs came to her share and she had already spent Rs.4.5 lacs and Rs.6 lacs have been handed over to her known residing in Kullu (Himachal Pradesh) by demarcating the place of occurrence kept concealed the cheated amount. Thereafter, she was produced before the Ld. Court of Area Magistrate and was taken on 02 days police remand for the purpose of recovery of cheated amount. On return, the custody of main accused was handed over to WPS Naraingarh.

6. That on 15.07.2020, the IO along with lady police officials reached WPS Naraingarh and Neha Bhagotra @ Heena @ Shikha was taken out from the police lockup and was taken for recovery of cheated amount and when the police party started from WPS Naraingarh, the accused Neha Bhagotra @ Heena @ Shikha had stated that earlier she had made the false statement about concealing Rs.6 lacs in the area of Kully (HP), whereas she had kept concealed Rs.1 lacs in her residence in Sector 40-A, Chandigarh and the same she could get recovered. The version of the accused Neha Bhagotra @ Heena @ Shikha was converted into disclosure statement and thereafter, she lead the police party to her residence and got recovered Rs.1 lac from her house along with mobile marka Samsung, which taken into possession by preparing separate recovery

memos duly attested by the witnesses.

7. That it is relevant to submit here that during interrogation the co-accused Neha Bhagotra had also disclosed that apart from the other facts, the photocopy of Air Ticket and VISA of complainant has been set by co-accused Gagandeep @ Gurprit r/o Dasuha (Hoshiarpur) presently resident of Moga (Punjab) on her Whatsapp and further she sent the same at the Whatsapp of Rajan and Parvinder Singh (Petitioners) by her mobile phone and she had also disclosed that Rs.4,27,000/- was handed over to above said co-accused Gagandeep alongwith passport of the complainant. Thereafter, the IO along with co-accused Neha Bagotra, for joining the co-accused Gagandeep in the investigation tried to search out him at the disclosed place in village Dasuha (Hoshiarpur) and present residential address at Moga (Punjab) but Gagandeep @ Gurprit could not be located at the disclosed places.

8. That on 16.07.2020, the main accused Neha Bhagotra @ Heena @ Shikha was produced before the Ld. Court of Area Magistrate and was sent to judicial custody.

9. That on 20.07.2020, on the regular bail application filed on behalf of co-accused Neha Bhagotra @ Heena @ Shikha, counsel for the complainant as well as counsel for the accused have stated at Bar that matter between the parties has been compromised and they submitted compromise deed dated 20.07.2020 before the Ld. Trial Court, Naraingarh (Ambala) and on the basis of said compromise deed the Ld. Trial Court pleased to grant regular bail to the co-accused Neha Bhagotra subject to furnishing bail bonds in sum of Rs.3 lacs with two surety in like amount with immovable property each and on submission of bail bonds, she ordered to be released on bail. The copy of

order dated 20.07.2020 passed by the Ld. Duty/JMIC Naraingarh (Ambala) is reproduced as under for kind perusal of this Hon'ble Court:-

“Arguments on bail application heard. The learned counsel for the complainant as well as counsel for the applicant/accused Neha Bhagotra have submitted at bar that the present matter has been compromised between the parties and compromise deed dated 20.07.2020 has been placed on file for the perusal of the Court. The learned counsel for the complainant has submitted before the Court that as per the compromise applicant/accused Neha Bhagotra paid Rs.4 lacs to the complainant and she has agreed to pay remaining Rs.6 lacs into two installments vide cheque No.000003 dated 02.08.2020 and cheque No.000004 dated 22.08.2020. In view of the compromise, the complainant has submitted that he has no objection if bail is granted to accused Neha Bhagotra. Heard. As Section 420, 406 IPC are compoundable in nature as per section 320 Cr.P.C., the parties have compromised the matter. Since the trial of this case will take long time. No useful purpose would be served by detaining the accused in further judicial custody. There is no ground to deny the concession of bail to the accused. Therefore, the accused Neha Bhagotra @ Heena is admitted to bail subject to furnishing bail bond in the sum of Rs.3,00,000/- (each) with two surety in the like amount with immovable property each. Requisite bail bonds furnished and accepted. Sureties bonds attested in the Court whereas personal bonds be attested by the jail authorities. Release order of accused Neha Bhagotra @ Heena be issued immediately. Ld. Counsel for applicant/accused has

suffered a statement that he is producing sureties with movable property today as sureties with immovable property are not available, however, he undertook that he will produce sureties with immovable property on 22.07.2020. He further submitted that if he is not able to produce sureties with immovable property till 22.07.2020, he will have no objection if the court cancels bail of the accused. Therefore, it is clarified that sureties with immovable property will be valid till 22.07.2020 and in case sureties with immovable property are not produced, bail of the applicant/accused Neha Bhagotra @ Heena will be cancelled by this Court. Now to come up on 29.07.2020 date already fixed. File be sent to concerned court forthwith.”

10. That as a matter of fact, none of the party informed the IO or any of the senior police official regarding the compromise effected between the parties on 20.7.2020 or prior to thereof, hence the IP after pronouncement of the order on the bail application of the co-accused Neha Bhagotra filed an application for certified copy of order and thereafter came to know about the compromise between the parties, however, the investigation of the present case is still in progress.”

Keeping in view the aforesaid facts, the order dated 11.06.2020, is made absolute.

Accordingly, the present petition is allowed.

14th August, 2020
nt

(ANIL KSHETARPAL)
JUDGE

Whether speaking/reasoned
Whether reportable

: Yes/No
: Yes/No