

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

Decided on: 20.02.2020

1. CRM-M No.12313 of 2019

Vikas Malhotra

....Petitioner

Versus

State of Punjab and another

....Respondents

2. CRM-M No.24076 of 2019

Rajesh Thakur

....Petitioner

Versus

State of Punjab

....Respondent

CORAM: HON'BLE MR JUSTICE ARVIND SINGH SANGWAN

Present : Mr. Gautam Dutt, Advocate
with Mr. Mohit Sadana, Advocate
Mr. D.S. Takkar, Advocate
and Mr. Deepak Gupta, Advocate for the petitioners.

Mr. Joginder Pal Ratra, DAG, Punjab.

ARVIND SINGH SANGWAN, J. (Oral)

Prayer in these petitions is for grant of regular bail to the petitioners namely Vikas Malhotra and Rajesh Thakur in FIR No. 163 dated 10.12.2018 registered under Sections 406, 420, 120-B of the Indian Penal Code, 1860 (in short 'IPC') at Police Station Phase 11, Mohali, District S.A.S. Nagar.

Counsel for the petitioners have argued that the petitioners namely Vikas Malhotra and Rajesh Thakur were arrested on 10.12.2018 and the police has submitted as many as 12 different challan arising out of the same FIR as the number of the complainant were on a higher side.

Counsel for the petitioners has further submitted that as per the allegations in the FIR, the petitioners – Vikas Malhotra and Rajesh Thakur, are partners in Dynamic International Group and were working as service providers and during the course of their business, the complainants/victims have deposited certain amounts for the purpose of providing job in Canada for skilled workers. It is further argued that as per the contract between the complainants/victims and the company, some amount was non-refundable and in pursuance to the same, the company of the petitioners had applied for Visa for all the victims/complainants and even they had gone to the Embassy of Canada for the purpose of interview but they were not granted Visa as they did not fulfill the requisite qualification.

Counsel for the petitioners has, thus, argued that it is a matter of trial whether the petitioners have committed any fraud as they had offered their services only as service providers and it was not within their domain to ensure that the work Visa is granted to the victims/complainants. It is further submitted that in the present challan, 14 prosecution witnesses have been cited; the case is still at the stage of recording the evidence of the prosecution witnesses despite the fact that charges were framed on 28.02.2019.

Counsel for the petitioners has, thus, argued that the offences are triable by the Court of Magistrate and statement of some of the witnesses including the victims have already been recorded and there is no possibility for the petitioners to tamper with the prosecution evidence.

Counsel for the State, on instructions from ASI Nirmal Singh has argued that all the 14 PWs have been examined in the present challan whereas there are different sets of witnesses in the other challan in which separate evidence is being recorded.

Without commenting anything on merits of the case, considering the fact that in one FIR, 12 challans have been presented by the prosecution; the petitioners are in custody for the last 01 year and 03 months and they are facing trial in 12 different challans wherein the evidence is going on, thus, it is apparent that it will take long time in conclusion of the trial and the prosecution is not being able to conclude the evidence in terms of Section 167(2) Cr.P.C., these petitions are allowed and the petitioners namely Vikas Malhotra and Rajesh Thakur are directed to be released on bail subject to their furnishing bail/surety bonds separately in 12 different challans, to the satisfaction of the trial Court/Illaq Magistrate/Duty Magistrate.

This will, however, be subject to the condition that in case the petitioners namely Vikas Malhotra and Rajesh Thakur have not surrendered their passports, the same will be surrendered before the trial Court. The passports of both the petitioners will remain with the trial Court, during the pendency of the trial.

It will be open for the prosecution to apply for cancellation of bail of the petitioners, in case they are found involved in any other case or misusing the concession of bail, in any manner.

(ARVIND SINGH SANGWAN)
JUDGE

20.02.2020

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Whether speaking/reasoned
Whether reportable:

Yes/No
Yes/No