

CRM-M-12778-2020 (O&M)

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

CRM-M-12778-2020(O&M)

Date of Decision: December 07, 2020.

HARMESH KAUR

..... PETITIONER(s)

Versus

STATE OF PUNJAB

..... RESPONDENT(s)

CORAM:- HON'BLE MRS.JUSTICE LISA GILL

Present: Mr. Hakam Singh, Advocate for the petitioner.

Mr. Abhay Pal Singh Gill, Asst. A.G., Punjab.

Mr. P.S. Sekhon, Advocate for the complainant.

LISA GILL, J.

This matter is being taken up for hearing through video conferencing due to the outbreak of pandemic, COVID-19.

CRM-29382-2020

For the reasons mentioned in the application, duly supported by an affidavit of the applicant-petitioner, same is allowed as prayed for. Documents Annexures P-3 to P-5, are taken on record, subject to just exceptions.

Application is disposed of.

CRM-M-12778-2020

Prayer in this petition is for grant of anticipatory bail to the petitioner in FIR No.26 dated 22.04.2020, under Sections 420, 120-B IPC and Section 13 of the Punjab Travels Professional (Regulation) Act, 2014, registered at Police Station Rawalpindi, District Kapurthala.

Learned counsel for the petitioners submits that the petitioner, who is a woman, has been unnecessarily roped in. As per allegations in the FIR, petitioner's son is alleged to be running his business in Dubai and the present petitioner and her son had promised to send the complainant's sons to Dubai. The present petitioner, it is alleged, had taken a sum of Rs.60,000/-. The complainant's younger son Hardeep Singh was sent to Dubai on 08.07.2018, on a tourist visa and it is alleged that he was not being given any salary. The complainant's elder son was sent to Dubai on 29.09.2018. At Dubai, the petitioner's son is alleged to have taken Rs.60,000/- each from the complainant's sons. Salary of the complainant's sons is stated to have been misappropriated by the agents and his sons are stated to have been suffering harassment at their hands in Dubai. One of the complainant's son returned to India on 03.07.2019. Action against the accused was thus sought and FIR No.26 registered on 22.04.2020.

Learned counsel for the petitioner submits that the petitioner has been falsely implicated merely because she is the mother of co-accused Purshottam Singh. Moreover, there is no explanation for the delay in lodging of FIR. Even after return of one of the complainant's son in July 2019, the present FIR was lodged after inexplicable delay on 22.04.2020. Furthermore, the petitioner, it is submitted, in compliance of order dated 22.05.2020, passed in this petition, has deposited a sum of Rs.60,000/- by way of FDR, before the learned Duty Magistrate, Kapurthala, though without prejudice to her rights. Learned counsel for the petitioner further submits that due to total ignorance and without benefit of correct advice the petitioner had gone to Dubai for attending her son's wedding but she had returned on 22.11.2020.

She later came to know that the said course of action was incorrect and in violation of the provisions of law. The petitioner, it is submitted, shall submit a specific undertaking before the learned Duty Magistrate within two weeks that she would not leave the country without requisite permission and neither would she violate any of the conditions of Section 438(2) Cr.P.C., in case concession of anticipatory bail is made absolute. It is submitted that the petitioner is not involved in any other criminal case. It is, thus, prayed that this petition be allowed.

Learned counsel for the State on instructions from ASI Ram Kumar, verifies that the petitioner has joined investigation and her custodial interrogation is not required.

Learned counsel for the complainant has opposed this petition while submitting that serious allegations have been raised against the petitioner and one of the complainant's sons was subjected to extreme harassment in Dubai itself. Though, an argument had been raised that passport of one of the complainant's son was not returned, learned counsel for the petitioner points out to Annexure P-3 to submit that the passport is in the custody of the complainant's son.

Keeping in view the facts and circumstances as above but without commenting upon or expressing any opinion on the merits of the case, this petition is allowed. Consequently, order dated 22.05.2020 is made absolute. Needless to say, the petitioner shall comply with the conditions stipulated under Section 438(2) of Cr.P.C.

Furthermore, the petitioner shall submit her undertaking as noted in the foregoing paras, before the learned Duty Magistrate within a

fortnight of receipt of certified copy of this order. The sum of Rs.60,000/- deposited by way of FDR shall remain with the trial Court, subject to decision of the matter and the same needless to say, is without prejudice to the rights of the petitioner. In case, the petitioner is found to be in violation of or in case of any infraction of the conditions of bail, the concession granted to the petitioner may be cancelled.

It is clarified that none of the observations made hereinabove shall be construed to be a reflection on the merits of the case. The same are solely confined for the purpose of decision of the present petition.

December 07, 2020

Sunil

(LISA GILL)
JUDGE

Whether speaking/reasoned: Yes/No

Whether reportable: Yes/No