IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

CRM-M- 15288 of 2020 (O&M)
Date of decision : 16.11.2020
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Harmit Singh
................Petitioner

vs.

State of Punjab
................Respondent

Coram: Hon'ble Mr. Justice H. S. Madaan

Present: Ms. Damini Aggarwal, Advocate for
Mr. Aakash Kumar Gupta, Advocate for the petitioner.

Mr.Dhruv Dayal, Senior Deputy Advocate General, Punjab.
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H. S. Madaan, J. (Oral)

Case taken up through video conferencing.

This petition for pre-arrest bail, has been filed by petitioner - Harmit Singh, aged about 54 years, son of Shamir Singh, resident of VPO Pajjoditta, District Hoshiarpur, an accused in FIR No. 95 dated 16.5.2020, for offences under Sections 406, 420 IPC and Section 13 of the Punjab Travel Professional (Regulation) Act, 2014, registered at Police Station Bhogpur, Jalandhar Rural.

Briefly stated, facts of the case, as per prosecution story, are that complainant Parvesh Kumar son of Des Raj, resident of Village Manchak, Post Office Jodie, Tehsil Akhnoor, District Jammu, had submitted a written complaint to SSP, Jalandhar (Rural), against the present petitioner, for not returning his money, despite compromise.

Inter alia in the complaint, complainant contended that petitioner-accused Harmit Singh had cheated him and his 9 other companions, namely, Kuldeep Singh, Kulvir Chand, Sonu Ram, Jet Lal, Ajay Kumar, Hem Raj, Ashwani Kumar, Deepak Raj and Deep Kumar Lal, receiving Rs.1.20 lacs from each of them, on the pretext of sending them abroad, but he neither ensured their migration, nor returned their money.

Inter alia in the complaint, the complainant further contended that he had given Rs.2 lacs in cash and transferred Rs.9 lacs in bank account of Harmit Singh with ICICI Bank, Bhogpur Branch, Jalandhar. Harmit Singh had returned only Rs.3.50 lacs. He had given a cheque in the sum of Rs.1.20 lacs dated 28.8.2018, drawn on ICICI Bank, Bhogpur Branch, Jalandhar but the cheque got bounced due to insufficiency of funds in account of the accused. Then on 26.2.2019, he had moved a complaint to the Commissioner of Police, Jalandhar. Thereafter, Harmit Singh compromised the matter with him, agreeing to return the balance amount in installments i.e. Rs.2.00 lacs on 4.4.2019, Rs. 2.00 lacs on 4.6.2019 and Rs.2.00 lacs on 4.8.2019, but till date he had not given any amount to him, rather caused him to spend Rs.1-½ to 2.00 lacs more. On receipt of this written complaint, formal FIR was registered.

Apprehending his arrest in this case, petitioner – accused Harmit Singh had approached the Court of Sessions at Jalandhar, by moving an application for anticipatory bail. However, his such application, which was assigned to Judge, Special Court, Jalandhar, was dismissed vide order dated 9.6.2020, as such he has knocked at the door of this Court, craving for grant of that very relief, which request is being opposed by the State counsel.

I have heard, learned counsel for the petitioner, learned State counsel, besides going through the record and I find that there is no ground for grant of pre-arrest bail to the petitioner.

Pre-arrest bail, dealt with by Section 438 Cr.P.C, is a discretionary equitable relief, which is to be granted by the Court in exceptional circumstances and not in routine. This relief is meant to save the innocent persons from harassment and inconvenience and not to help the criminals in avoiding the interrogation by the police. Furthermore, custodial interrogation is more elicitation oriented, than an accused being questioned while he is having protective umbrella of interim bail/pre-arrest bail, since in the eventuality of the latter, such accused would certainly not come up with all the inculpatory facts within his knowledge, fearing that such information given by him may be used against him in the case, during the trial.

In the present case, the allegations against the petitioner are of very grave and serious type, having cheated 10 innocent persons of their hard earned money. The factum of the victims giving money to the petitioner accused, finds corroboration from the fact that a sum of Rs.5.94 lacs had been transferred by the complainant in the bank account of the accused. The plea taken by the petitioner that he had obtained E-Visa for 10 persons, including the complainant, but the complainant, who himself is a travel agent, had not handed over those documents to other 9 persons, ultimately, the term of the Visas had expired, does not seems to be convincing. There is nothing on record to suggest hat complainant himself is a travel agent. It does not seems to be convincing and plausible that petitioner -accused handed over the visas to the complainant and he would keep those with him allowing their term to expire. If the petitioner was not at fault, where was the necessity of his returning a sum of Rs.3.50 lacs to the complainant, besides handing over a cheque in the sum of Rs.1.20 lacs dated 28.8.2018 bearing No. 0000434, drawn on ICICI Bank, Branch Bhogpur, Jalandhar, to the complainant, which cheque is said to have bounced due to insufficiency of funds in account of the petitioner-accused.

Furthermore, on an earlier complaint having been submitted by the complainant to the Commissioner of Police, Jalandhar, on 26.2.2019, the matter is said to have been compromised with the petitioner -accused agreeing to return Rs.6 lacs in 3 installments of Rs.2 lacs each, after duration of 2 months. This goes to point out that the allegations in the complaint have merit.

It may be mentioned here that when the present petition came up for hearing on 16.6.2020, while issuing notice of motion, the petitioner was granted interim bail with a direction to join the investigation. He was directed to furnish security in the form of bank guarantee for a sum of Rs. 1 lac with the Investigating Officer, to await further orders of the Court. The petitioner has not complied with that direction. Though he had gone to join the investigation with the local police, but when asked about furnishing of bank guarantee, he could not give any satisfactory reply. The petitioner, who is not complying with the direction of the Court, can certainly be not expected to comply with the terms and conditions under Section 438 Cr.p.C., if granted pre-arrest bail.

The gravity and seriousness of the allegations against the petitioner, do not warrant the discretionary equitable relief of pre-arrest bail being granted to him. Further his custodial interrogation is found to be necessary for complete and effective investigation, to unfold entire story. In case custodial interrogation of the petitioner is denied to the investigating agency, that would leave many lacuna, loopholes and gaps in the investigation, adversely affecting the investigation, which is not called for.

Thus, finding no merit in the petition, the same stands dismissed.

However, nothing discussed above shall have any bearing on the merits of the case.

(H.S. Madaan)
16.11.2020 **Judge**
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Whether speaking / reasoned Yes / No

Whether reportable Yes / No