

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

Sr. No.202

CRM-M-17389-2020

Date of decision: 04.08.2020

Mehnaz Chauhan and another

....Petitioners

versus

State of Punjab

....Respondent

CORAM: HON'BLE MR. JUSTICE DEEPAK SIBAL

Present: Mr. Amit Sharma, Advocate
for the petitioners.

Mr. Sandeep Singh Deol, DAG, Punjab.

Mr. Naveen Sharma, Advocate
for the complainant.

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DEEPAK SIBAL, J. (Oral)

Case taken up through video conferencing.

Through the present petition filed under Section 438 Cr.P.C., the petitioners seek the grant of anticipatory bail in FIR No.03 dated 08.01.2020, registered under Sections 406, 420, 120-B IPC at Police Station Khanna City-2, District Ludhiana.

The case of the prosecution is that the petitioners who are the Directors of Conexus Settlement Solutions Private Limited, assured to send the complainant-Sukhpreet Kaur abroad on permanent residence basis and for such service they demanded Rs.25 lakhs. The parties then entered into an agreement and at that time the complainant handed over Rs.6 lakhs to the petitioners. After 15 days, the petitioners told the complainant that they had received a favourable communication from abroad and demanded Rs.5 lakhs from her. Acting on such representation on the part of the petitioners,

the complainant deposited through RTGS an amount of Rs.2 lakhs on 23.08.2019 and Rs.3 lakhs on 26.08.2019. Thereafter, the petitioners demanded another sum of Rs. 5 lacs which was handed over by the complainant to them in their office. The original passport and the original educational certificates of the complainant and her husband were also taken by the petitioners. Thereafter, petitioner No.1 telephonically informed the complainant that documents with regard to her permanent residence had been received which could be got collected from them after payment of Rs. 15 lakhs but when the complainant and her husband asked the petitioners to show such documents they refused to do so as there were none. The complainant and her husband then asked for the complainant's passport and original documents which the petitioners refused to do so till the balance of the agreed amount was paid to them.

On 03.07.2020, when the present petition came up for preliminary hearing before this Court the following order was passed:-

“It is contended by the counsel for the petitioners that the petitioners are not even disputing that they had taken money from the complainant regarding the consultancy qua immigration. Since the matter has not materialised, the petitioners are ready to return the money, subject to the decision of the trial Court. It is further contended that although the complainant has alleged payment of Rs.16 lakhs, however, the petitioners had accepted an amount of Rs.11 lakhs only and they have already paid Rs.2 lakhs to the complainant while the proceedings were pending before the Court below and only an amount of Rs. 9 lakhs remains unpaid.

Notice of motion.

Mr. Gaurav Garg Dhuriwala, Senior DAG, Punjab, accepts notice on behalf of the State and Mr. Naveen Sharma, Advocate, accepts notice on behalf of the complainant.

Adjourned to 21.7.2020.

In the meantime, it is ordered that in case the petitioners are arrested in this case, they shall be released on interim bail subject to their furnishing bonds

to the satisfaction of the Investigating Officer concerned and further subject to the production before the Investigating Officer; a demand draft in the name of the complainant for an amount of Rs. 9 lakhs within a period of 15 days from today.

It is further clarified that the petitioners shall be released on bail only if they produce the above mentioned demand draft.

It is further ordered that in case the petitioners produce the demand draft, as mentioned above, the Investigating Officer shall hand over the same to the complainant for encashment, subject to the decision of the trial.”

A perusal of the afore-quoted order reveals that at the time of preliminary hearing of the present petition learned counsel for the petitioners had admitted that the petitioners had taken from the complainant an amount of Rs.11 lakhs for her immigration and that since such immigration of her did not materialize Rs.2 lakhs had been returned by the petitioners to the complainant. Learned counsel for the petitioners further submitted that subject to the decision of the Trial Court, the petitioners were ready to return to the complainant the balance unpaid amount of Rs.9 lakhs.

After noting the above submissions made on behalf of the petitioners this Court issued notice and in the meanwhile subject to the petitioners producing a demand draft in the name of the complainant for an amount of Rs.9 lakhs within 15 days from the date of passing of the order granted the petitioners ad interim anticipatory bail. It was further directed that the afore mentioned demand draft, if produced by the petitioners, shall be handed over to the complainant after encashment but the same would be subject to the decision of the Trial Court.

After notice, the matter was listed before this Court on 21.07.2020, on which date learned counsel for the petitioners prayed for more time to produce the aforesaid demand draft. Such prayer was accepted

and the matter was adjourned to 31.07.2020 on which date as well learned counsel for the petitioners submitted that the demand draft could not be arranged and for doing the needful sought yet another adjournment. The prayer made on behalf of the petitioners was accepted and the matter was adjourned to today.

Today, when the matter came up for hearing no demand draft was produced and a statement was made by learned counsel for the petitioners that the matter between the parties had been settled. However, such statement, on verification from learned counsel for the complainant, was found to be false.

The above facts clearly reveal that the petitioners have gone back on their statement made before this Court. They have also failed to comply with the conditions imposed by this Court at the time of granting them ad interim anticipatory bail. A false statement is also found to have been made on the petitioners' behalf that the matter between the parties stood settled.

In view of the above, this Court is of the unhesitant view that the present petition should be dismissed and it is so ordered.

(DEEPAK SIBAL)
JUDGE

August 04, 2020
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Whether speaking/reasoned
Whether reportable

Yes/No
Yes/No