

IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

CRM-M-37010-2018(O&M)

Date of Decision: 13.8.2020

Arvind Ashat

--Petitioner

Versus

State of U.T., Chandigarh & others

--Respondents

CORAM:- HON'BLE MR.JUSTICE TEJINDER SINGH DHINDSA.

Present:- Mr. Sanjay Bhojwani, Advocate with
Mr. Varinder Arora, Advocate for the petitioner.

Mr. Sukant Gupta, APP, U.T., Chandigarh.

Mr. Navkiran Singh, Mr. P.S. Brar, Mr. Maninderjit Singh,
Mr. C.L. Sharma, Mr. Navjeet Singh & Mr. B.S. Bajwa,
Advocates for the complainants.

TEJINDER SINGH DHINDSA.J (Oral)

Matter has been taken up through video conferencing via Webex facility in the light of the Pandemic Covid-19 situation and as per instructions.

Instant petition has been filed under Section 439 Cr.P.C seeking benefit of regular bail to the petitioner in case FIR No.50 dated 31.3.2017 under sections 420, 120-B I.P.C and sections 10 and 24 of Immigration Act, registered at Police Station, North, Chandigarh, District Chandigarh.

It may be noticed that FIR came to be registered on the complaint of one Rupinder Singh Grewal on the allegations that he had given Rs.4,94,000/- to the petitioner for the purpose of arranging visas for students, who wish to pursue studies abroad. Petitioner was stated to be running a consultant agency for such purposes. Complainant asserted that the amount in question had been paid through recorded banking transactions

through the mode of R.T.G.S. Allegations in a nutshell are that the complainant has been duped of such amount. Even a cheque given by the petitioner for refund of the amount was dishonored upon presentation.

Apparently during the course of investigation around 400 persons approximately raised similar allegations. List of such persons who have raised allegations of the same nature stands appended as Annexure P-2 along with the petition.

Counsel representing the petitioner would submit that he has already faced incarceration since 26.4.2018. Investigation in the case is complete. Challan already stands presented but the trial is not making much head away. It is also the contention raised by counsel for petitioner that the matter having been referred to mediation, the petitioner has already furnished drafts of a total sum of Rs.38 lakh in the names of the different complainants, as per the directions of the Mediator. It is further contended that with a number of persons/complainants the matter already stands settled. The outstanding amount, if any, would be a subject matter of trial on the basis of evidence adduced. Counsel prays for the petition to be allowed.

Per contra, learned counsel appearing for U.T., Chandigarh as also counsel for various complainants have vehemently opposed the prayer for bail. It is sought to be contended that in relation to certain complaints the matter is still under investigation and supplementary challans would be filed in due course. Counsel for the complainants assert that the petitioner is a fraudster and an amount in excess of Rs.21 crores has been duped. Learned counsel representing the U.T., Chandigarh would be at pains to apprise the Court that such amount had not been paid by way of cash to the

accused but through recorded banking transactions.

Having heard counsel for the parties at length, this Court is of the considered view that the conduct of the petitioner does not inspire confidence and rather he has made attempts to mislead this Court. In this regard it would be appropriate to reproduce the order dated 22.5.2020, passed by this Court. The order reads as follows:-

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

Learned counsel for the petitioners submits that the petitioner shall deposit a sum of Rs.1,00,000/- towards each of the complainants who are before this Court, without prejudice to the petitioners' right. The said amount, it is submitted, may be released to the said complainants. The same would be without prejudice to the rights of either the petitioners or the complainants.

Learned counsel for the complainants while contending that there are a number of persons who are unable to approach this court but their interest should be protected, state that they shall submit the details of the persons they are representing to Mr. Sukant Gupta, APP, U.T. Chandigarh as well as to learned counsel for the petitioners within two days.

List on 29.05.2020.

Learned counsel for the petitioner, in the meanwhile prays for time to seek instructions regarding deposit of an FDR over and above the amount agreed to be paid as above.

A photocopy of the order be placed on the file of above mentioned case.”

Subsequently, the matter having been taken up the following order was passed by this Court on 6.7.2020:-

“Matter has been taken up through Video

Conferencing via Webex facility in the light of the Pandemic Covid-19 situation and as per instructions.

*On 22.05.2020, the contention of counsel for the petitioner had been recorded that he would deposit a sum of Rs.1 lakhs towards each of the complainant who are before this Court. That apart, submission on behalf of counsel for the complainants was also noticed that a number of persons who may be aggrieved have been unable to approach this Court and their interest had also to be protected. The details of such persons were to be furnished by counsel for the complainants to Mr. Sukant Gupta, APP, U.T. Chandigarh as well to learned counsel for the petitioner. In addition thereto, counsel for the petitioner had also sought time to seek instructions regarding deposit of a FDR over and above the amount “**agreed**” to be paid as noticed above.*

During the course of hearing today, it is apparent that the petitioner/counsel is attempting to resile from the offer recorded by this Court on 22.05.2020.

As per Mr. Sukant Gupta, learned APP, U.T. Chandigarh, there are in all more than 300 affected persons including the complainants before this Court and a complete list has been supplied to Mr. Sanjay Bojhwani after passing of the order dated 22.05.2020.

The total number of affected people is disputed by counsel representing the petitioner.

Be that as it may, as of date, the petitioner is resiling even from the offer of payment of Rs.1 lakh to be made to each of the complainants who are before this Court. Even as regards the instructions for which time was sought for deposit of FDR over and above the amount “agreed”, no concrete offer is being made.

Hearing in the instant petition is accordingly deferred to 13.08.2020 so as to enable counsel for the petitioner to complete instructions and to assist this Court in the light of the order dated 22.05.2020 already passed.”

During the course of hearing today, counsel for the petitioner states that he has filed CRM-19663-2020 to place on record two demand drafts of Rs.10 lakh each i.e. a total of Rs.20 lakh towards satisfaction of that part of the undertaking recorded in the order dated 22.5.2020 to make over a sum of Rs.1 lakh each towards the complainants who were before this Court.

As regards the deposit of F.D.R over and above the amount agreed to be paid, so as to protect the interests of a large number of persons, who had been unable to approach this Court and for which time had been sought specifically by the counsel on 22.5.2020, a statement is made that petitioner is not in a position to make an F.D.R of any amount whatsoever. Counsel, at this stage, interjects that such inability is being expressed upon instructions from the petitioner himself.

Clearly, it is a case where the petitioner has been changing stands all through. False assurances have been held out to this Court to secure benefit of bail. Petitioner is in the habit of resiling from his statements made through counsel. Conduct of the petitioner disentitles him from the concession of bail.

Petition, accordingly, is dismissed.

Pending application(s), if any, shall also stand disposed of.

(TEJINDER SINGH DHINDSA)
JUDGE

13.8.2020

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Whether speaking/reasoned: Yes/No
Whether Reportable: Yes/No