

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH****CRM-M-21988-2020****Date of Decision: 01.12.2020**

Surender

...Petitioner

Versus

State of Haryana

...Respondent

CORAM: HON'BLE MR. JUSTICE GURVINDER SINGH GILL

Present: Mr. Keshav Pratap Singh, Advocate, for the petitioner.

Ms. Sheenu Sura, DAG, Haryana.

Mr. Saurabh Sharma, Advocate, for the complainant.

*(proceedings conducted through video conferencing)***GURVINDER SINGH GILL, J. (Oral)**

1. The petitioner has approached this Court seeking grant of anticipatory bail in respect of a case registered vide FIR No.197 dated 13.07.2020 registered at Police Station Nissing, District Karnal under Sections 370, 406, 420, 506 IPC and Section 24 of the Immigration Act.
2. The FIR was lodged at the instance of Suresh Kumar, wherein it is alleged that in order to send his son abroad, he had made inquiries from his relative Surender, who introduced him to Om Parkash Arya and his brother Jagdish and it was told to the complainant that it will cost Rs.26 lakhs. The complainant alleged that he had given an amount of Rs.1 lakh to Surender in December, 2017 and that another amount of Rs.5 lakhs was also given to the accused in the month of December, 2017. It is alleged that the complainant's

son was sent to Cambodia, where he was kept for 15/20 days, but he was never sent to America and ultimately he had returned back from Cambodia.

3. While issuing notice of motion, the following order was passed on 07.08.2020:

“The learned counsel for the petitioner submits that although there are allegations to the effect that the complainant has been deprived of an amount of Rs.7 lakhs on the pretext of sending his son abroad, but even as per the FIR the role attributed to the petitioner is that he had introduced the complainant to the other co-accused who had been accepting money from the complainant and on some occasions through the petitioner as well.

The learned counsel for the petitioner has further submitted that the complainant was fully aware that his son was to be sent through dubious means to USA i.e. via Mexico and, as such, he himself had voluntarily chosen this illegal method.

The learned counsel for the petitioner has further submitted that the petitioner, in any case, to prove his *bona fide* has offered that he would deposit an amount of Rs.2 lakhs in the Court subject to final outcome of the case.

Notice of motion for 1.12.2020.

Meanwhile, in the event of arrest, the petitioner be released on interim bail subject to his furnishing personal bonds and surety bonds to the satisfaction of Arresting/Investigating Officer. However, the petitioner shall join the investigation as and when called upon to do so and cooperate with the Investigating Officer and shall also abide by the conditions as provided under Section 438 (2) Cr.P.C.

The petitioner shall deposit an amount of Rs.2 lakhs before the Trial Court/Illaqa Magistrate, which shall be invested in FDR in some nationalized bank.”

4. Learned State counsel on instructions from ASI Gurmit Singh has informed that pursuant to the interim directions, the petitioner has since joined investigation and is not required for custodial interrogation.
5. It is not disputed by the counsel for the complainant that pursuant to interim directions, an amount of Rs.2 lakh has already been deposited before the trial Court.
6. Having regard to the facts and circumstances of the case and the fact that the custodial interrogation of the petitioner is not required, as has been informed by the learned State counsel, the petition is accepted and the interim directions issued by this Court vide order dated 07.08.2020 are hereby made absolute subject to the condition that the petitioner shall join investigation as and when called upon to do so and cooperate with the Investigating Officer and shall also abide by the conditions as provided under Section 438 (2) Cr.P.C.
7. It is clarified that the amount of Rs.2 lakh, which has been deposited before the trial Court and has been invested in the FDR, shall be released in favour of the complainant in case the petitioner is convicted. However, in case the petitioner is acquitted, he shall be entitled to the aforesaid amount.

01.12.2020
Vimal

(GURVINDER SINGH GILL)
JUDGE

Whether speaking/reasoned: **Yes/No**
Whether reportable: **Yes/No**