

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

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CRM-M-23284-2020

Date of decision : 19.08.2020

Rahul Gupta

...Petitioner

Vs.

State of Haryana

...Respondent

CORAM: HON'BLE MRS. JUSTICE ALKA SARIN

Present: Mr. Tarun Dhingra, Advocate, for the petitioner.

ALKA SARIN, J. (ORAL)

Heard through video conferencing.

This is a petition under Section 438 of the Code Criminal Procedure, 1973 for grant of anticipatory bail to the petitioner in FIR No.194 dated 09.07.2020 under Sections 406, 420 of the Indian Penal Code, 1860, (for short, 'the IPC') later on Sections 370, 384, 506, 120-B IPC and Section 24 of the Emigration Act, 1983 were added, registered at Police Station Nissing, District Karnal.

The allegations in the FIR are that the complainant - Harkirat Singh - used to go to Nissing for treatment from Vinayak Hospital, which is run by the petitioner Rahul Gupta and his wife, co-accused Dr. Anuja Gupta. The further allegation is that the accused couple lured the complainant that they would arrange a visa for him to go to America. For arranging the said visa the accused demanded an amount of Rs.25 lakhs. The complainant, who was an unemployed person, trusted the accused couple and gave his passport and other documents to them, who also got the signatures of the complainant on blank papers. It is further the

allegation that the complainant arranged an amount of Rs.3 lakhs from his relatives and gave the said amount to the accused couple. In March 2019, the accused made a telephonic call to the complainant intimating him that a direct visa for America could not be arranged and they would arrange for him to go to America through some other country. As such on 27.03.2019 the departure of the complainant was facilitated through Cambodia. On reaching Cambodia, the complainant was sent to Malaysia. However, the complainant was called back to India on 10.04.2019. On returning to India, the accused again contacted the complainant in the month of June 2019 and assured the complainant that they would make arrangements to send the complainant to Russia and from there to America. As such on 10.06.2019, the complainant was sent to Russia and on reaching there the accused pressed for another payment of Rs.4.5 lakhs. The father of the complainant gave an amount of Rs.4.5 lakhs to the accused at their hospital. Thereafter on 19.06.2019, the complainant was sent from Russia to Mexico. On reaching Mexico, the accused started reiterating the demand of Rs.17.5 lakhs. The father of the complainant raised a loan from a Commission Agent, named Amandeep, by pledging gold with the ICICI Bank, Nissing and paid the said amount to the accused. The accused facilitated the crossing of the complainant from Mexico to America where he was caught by the American Police and remained in jail for 08 months and was thereafter deported. On his return, he demanded his money back from the accused, however, they refused to pay the said amount.

Learned counsel for the petitioner has contended that the petitioner has been falsely implicated in the case due to village politics and for the reason that he stays in a nuclear family.

On the asking of the Court, Mr. Sandeep Singh Mann, Addl. AG Haryana has put in appearance on behalf of the respondent-State through video conferencing and has stated that during investigation the complainant has proved that he had taken loan by pledging his gold for making the payment to the petitioner. Mr. Mann has stated, on instructions from Sub Inspector Ram Phal, that the complainant had explained the sources from where he had arranged the money given to the petitioner and the co-accused. Mr. Mann further states that the petitioner and the co-accused had arranged for the complainant to reach America through various illegal routes and the complainant was eventually arrested and deported. In view of the allegations, the custodial interrogation of the petitioner is necessary.

In the order dated 10.08.2020, passed by the Additional Session Judge, Karnal, it has been noticed that vide order dated 18.07.2020 the concession of anticipatory bail was granted to the co-accused Smt. Anuja Gupta under exceptional circumstances as she was at the advanced stage of delivery. It is further noticed that she has given birth to a child on 30.07.2020. However, as per the investigating agency she has joined investigation but was not co-operating.

In the FIR, there are specific allegations that the complainant had entrusted an amount totalling Rs.25 lakhs on various dates to the petitioner and the co-accused. The allegation is that the petitioner and the

co-accused had facilitated the entry of the petitioner into America through various illegal routes. Gullible villagers fall prey to such allurements in the hope of a better life abroad. Not only are these poor people left in debts trying to pay the agents but also end up in jail in a foreign country as in the present case. Further, the counsel for the petitioner has not been able to point out as to why the petitioner would have been falsely implicated in the case.

In view of the above, I do not deem it to be a fit case for anticipatory bail. The petition is, therefore, dismissed.

However, it is made clear that any observation made herein would not be treated as an expression of opinion on the merits of the case

The present petition is accordingly dismissed.

August 19, 2020
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(ALKA SARIN)
JUDGE

NOTE:

Whether speaking/non-speaking: Yes/No

Whether reportable: Yes/No