

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

Crl. Misc. M-30135 of 2020
Date of decision: 29.09.2020

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Sachin Sharma

....Petitioner(s)

Versus

U.T., Chandigarh and another

...Respondent(s)

CORAM: HON'BLE MR. JUSTICE G.S.SANDHAWALIA

Present: Mr. Vinod K. Kataria, Advocate,
for the petitioner.

Mr. A.M. Punchhi, Public Prosecutor,
for U.T., Chandigarh.

Mr. V.K. Kaushal, Advocate,
for respondent no. 2.

(Proceedings are conducted through video
conferencing as per instructions).

G.S.SANDHAWALIA, J. (Oral)

The present petition has been filed under Section 438 Cr.P.C., for grant of anticipatory bail to the petitioner in FIR No. 0143 dated 18.07.2020 under Sections 420, 120-B IPC and Section 24 of the Immigration Act registered at Police Station Sector 34, Chandigarh.

The FIR has been lodged by the complainant-Davinder Singh on the ground that an assurance was given to send him abroad by the petitioner and others, who had held out that he was in the business of immigration. The complainant had to be sent to Singapore and other persons also were introduced by the petitioner to the complainant. Eventually, the deal was stuck for Rs.7,00,000/- out of which, Rs.1,00,000/- was given in advance. The loan of Rs.5,00,000/- was taken from the bank and on 16.05.2018, the said amount was withdrawn and another

Rs.1,00,000/- was arranged from family and friends. The said amount was handed over to the petitioner alongwith the original passport in the presence of one Mr. Sanjeev Garg, the witness. The petitioner was accompanied alongwith partner Ms. Kiran Geotra and the petitioner's wife namely Aarti Sharma, who had assured the complainant that they had already sent many persons abroad. The visa was to be granted within a period of 3-4 months but was not done. The efforts made to get the money back and the original passport did not yield any results and then threats were held out by the petitioner and his family. Resultantly, complaint dated 16.12.2019 had been filed leading to the lodging of the FIR.

Counsel for the petitioner has vehemently argued that Sanjeev Garg, the witness as such had filed a separate complaint with the police authorities at Panchkula on account of business rivalries and inquiry had been made by the authorities at the police station, Sector 5, Panchkula, which had been filed (Annexure P-4). Therefore, the complainant was playing in the hands of the said person who is an ex-employer of the petitioner.

Mr. A.M. Punchhi, Advocate, has put in appearance on behalf of U.T. Administration and Mr. V.K. Kaushal, Advocate has put in appearance for the complainant.

It has been confirmed from them that there is a withdrawal of Rs.5,00,000/- from the account of the complainant on 16.05.2018 as per the averments made in the FIR and, thus, the said person had the said amount available. It is also pointed out that while dismissing the anticipatory bail application, the Additional Sessions Judge, Chandigarh noticed that there was another FIR No. 122 under Sections 419, 420, 120-B IPC registered at

Police Station, Sector 17, Chandigarh and, thus, the petitioner was an habitual offender.

Counsel for the petitioner has tried to submit that he was not named in the FIR, which has been appended as Annexure P-6.

However, a perusal of the order dated 09.01.2019 (Annexure P-7) passed by the Judicial Magistrate Ist Class, Chandigarh would go on to show that compounding of the offence was allowed and the petitioner alongwith Harpreet Singh, Ankush and Atul Choubey were acquitted of the charges and, therefore, prima facie, it can be said that the petitioner's antecedents are not clean. Mr. Punchhi has further placed on record photocopy of the Memorandum of Understanding (MOU) signed by the petitioner with the complainant whereby, he had undertaken that the visa process would be completed within 3-4 months and the deal was finalized for Rs.7,00,000/- and payment was received in cash from the complainant Davinder Singh. Further mention has been made in MOU to M/s. ASK Migration Services having Aarti Sharma and Kiran Geotra as partners. The communication dated 28.09.2020 having been received from the Government of India, The Protector of Emigrants, Chandigarh has also been placed on record whereby, the concerned police officials of U.T. have been informed that M/s. ASK Migration Services is not registered with the Ministry of External Affairs under the Emigration Act, 1983

In such circumstances, it is apparent that the custodial interrogation of the petitioner would be required to find out the methodology which he is resorting to for duping innocent persons of their hard earned money. It is settled principle that the benefit of anticipatory bail is not to be granted until there are mala fides or the FIR has been

lodged on account of political rivalry.

Accordingly, finding no merit in the present petition, the same is dismissed.

29.09.2020
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(G.S. SANDHAWALIA)
JUDGE

Whether reasoned/speaking

Yes/No

Whether reportable

Yes/No