

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-30828-2020

DATE OF DECISION: NOVEMBER 9, 2020

VISHAL @ VISHAL KHOKHAR

...PETITIONER

VERSUS

STATE OF HARYANA

...RESPONDENT

CORAM: HON'BLE MR. JUSTICE MANOJ BAJAJ.

PRESENT: MR. KESHAV PRATAP SINGH, ADVOCATE
FOR THE PETITIONER.

KANWAR SANJIV KUMAR, AAG, HARYANA.

MANOJ BAJAJ, J.(ORAL)

Petitioner has filed this petition under Section 439 Cr.P.C. for grant of regular bail pending trial in case FIR No.449 dated 5.6.2020, under Section 406, 420, 120-B, 370, 384 IPC and Section 24 of Immigration Act, Police Station Model Town, Panipat. The petitioner is in custody since his arrest on 18.6.2020.

The allegations contained in the FIR as noticed by the Addl. Sessions Judge, Panipat in his order dated 21.9.2020, are as under:-

“The case of the prosecution was launched on the application of complainant Sombir, who reported that he had passed polytechnic after matriculation and had gone to Cyprus on study visa and had returned to India on 28.11.2018. He wanted to get a job in foreign through proper channel and thus he contacted applicant-Vishal in December 2018, who used to send people abroad. The applicant told him that there will be expenses of Rs.48 lacs to send him through proper channel to America but

the deal was struck for Rs.45 lacs. The complainant arranged money and paid a sum of Rs.8 lacs to applicant-Vishal, who assured to arrange visa for him. On 28.12.2018, applicant disclosed that his flight will take off in the night and thus the complainant reached Delhi Airport where the applicant handed over air ticket for Ecuador and his passport and took further sum of Rs.10 lacs from the complainant. From Ecuador, he was taken to Quito and then to Kelly and then to Columbia through different means and thereafter he was sent by boat to Kourgane. There he was confined in a ruined house and after some time, some armed persons took him to a forest and dropped him at Panama. There he was apprehended by the police and was put in jail. He talked with the complainant who demanded further sum of Rs.3 lacs. On payment of the said amount, he was arranged to be released from the jail and was dropped at Costa Rica where again he was arrested by the police and was sent to jail. After his release from jail, he again contacted Vishal who raised demand of remaining amount. The mother of the complainant paid Rs.22 lacs to the applicant and then the complainant was taken to Nicaragua where again he was sent to jail. After release from jail, he was taken to Mexico border and was made to jump the wall to enter America where also he was arrested by the American police and was put to jail. Thus, he had paid a sum of Rs.43 lacs to the applicant, which was not returned to him by the applicant and rather he had to suffer and had to remain in jail in different countries and was ultimately deported to India. He stated that thus the applicant had cheated with him, forged the documents and failed to return the amount received by him. With these averments, the present formal

FIR under sections 406, 420, 120-B, 370, 384 of IPC and 24 of Immigration Act was lodged.”

Learned counsel for the petitioner contends that the co-accused, namely, Vijay and Max had arranged the transportation of the complainant abroad and the petitioner was only involved in introducing the complainant to the said co-accused, as the brother of the petitioner, namely, Ravinder Khokhar also went abroad through them. He has invited the attention of the Court to the disclosure statement of the accused to contend that the amount received from the complainant was further given to the co-accused persons and a very little amount was given to the petitioner. He has submitted that the investigation of the case is complete and charges have also been framed on 26.10.2020, but the trial is likely to take time to conclude. He prays that the petitioner be released on regular bail during the pendency of the trial.

On the other hand, learned counsel for the State assisted by ASI Sant Ram has opposed the aforesaid prayer. He has referred to the reply filed by Sandeep Singh, HPS, DSP, Panipat wherein it is mentioned that the co-accused, namely, Vijay and Max have not been arrested so far. He further contends that during investigation, the details of various accounts of the complainant's relatives have been collected and the offence punishable under Section 370 IPC was also added. However, it is not disputed that qua petitioner, the challan stands filed and the charges have been framed.

At this stage, learned counsel for the petitioner contends that as per the complainant himself, he was willing to migrate to USA, therefore, allegations may not constitute the offence punishable under Section 370 IPC. He has further argued that the details of the accounts collected may not

be of any relevance particularly, when it is not mentioned in the reply that the amount was transferred to the petitioner's account.

After hearing learned counsel for the parties, this Court finds that the investigation of the case is complete and the charges were also framed on 26.10.2020, however, the trial is progressing at a slow pace. This Court is cognizant of the fact that the outbreak of global pandemic COVID-19 in the region may further delay the conclusion of trial. The petitioner is presently confined in judicial custody after his arrest on 18.6.2020, therefore, his further detention may not be necessary for any useful purpose.

Resultantly, without meaning any expression of opinion on the merits of the case, it is ordered that the petitioner be released on regular bail in the above case, subject to his furnishing requisite bail bonds/surety bonds to the satisfaction of the trial Court concerned.

The petition is allowed.

November 9, 2020
Gulati

(MANOJ BAJAJ)
JUDGE

Whether Reportable : Yes/No

Whether Speaking/Reasoned : Yes/No