

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

CRM-M-38246 of 2020
Date of decision:04.12.2020

Ravinder Kumar @ Rinku

... Petitioner

Vs.

State of Haryana

... Respondent

CORAM: HON'BLE MR. JUSTICE SUVIR SEHGAL

Present:- Mr. Ravneet Singh Joshi, Advocate
for the petitioner.

Mr. Rajiv Sidhu, Deputy Advocate General, Haryana
for the State.

Mr. Shailender Singh Gill, Advocate
for the complainant.

SUVIR SEHGAL J.

The hearing of this petition has taken place through video conferencing on account of outbreak of coronavirus (Covid-19) pandemic.

Instant petition has been filed under Section 438 of the Code of Criminal Procedure seeking grant of anticipatory bail in FIR No.151 dated 13.07.2020 (Annexure P-1) registered under Sections 342, 406, 420, 506 and 34 of Indian Penal Code, 1860 at Police Station Sadar, Tohana, District Fatehabad.

As per the version of the prosecution, FIR was registered against (1) Ravinder Kumar *alias* Rinku (petitioner herein), (2) Suman wife of Ravinder Kumar *alias* Rinku and (3) Jasvinder alias Jonni. The applicant stated that he was 12th pass and Jonni Saini, accused No.(3) was his friend and through him, he met accused No.(1) on 31.12.2016 when the complainant was told that accused No.(1) sends people abroad and he works with accused No.(2) and (3). The complainant expressed his desire to go to

Canada and accused No.1 told him that a visa for Canada can be arranged for Rs.41.00 lakhs. Initially, a sum of Rs.50,000/- was paid by the complainant to accused No.1 on 03.03.2017. Over the period of time, more than Rs.40 lakh was paid to the accused. But instead of sending him to Canada, the complainant-respondent No.2 was taken to Vietnam and then to Cambodia. The accused gave him a bogus visa and ticket. The complainant somehow managed to reach back to Delhi and subsequently to his native village. When the complainant and his family members started demanding the money back, the accused not only refused to return the money but also threatened them. It was in this background that the complaint was lodged with the police authorities.

Counsel for the petitioner has argued that he has been framed in a false case. He submits that the petitioner, who was a friend, paid Rs.17.00 lakhs on behalf of the complainant to different persons and even arranged for his air tickets. Counsel has made a reference to the civil suit for rendition of account filed by the petitioner (Annexure P-2) whereupon notice was issued by the Court on 10.07.2020 (Annexure P-3) to the complainant as well as to another defendant. It has been argued that the FIR, which was lodged on 13.07.2020, was a counter blast to the civil suit. Still further, it has been submitted that a perusal of the FIR shows that the ingredients of offences as alleged in the FIR, are not made out.

Per contra, State counsel assisted by Mr.Shailender Singh Gill, counsel for the complainant have opposed the petition and have relied upon the status report filed by way of affidavit of Deputy Superintendent of Police, Tohana on behalf of the State, to submit that the complaint was prior in point of time and the civil suit by the petitioner was only a guise to

wriggle out of the pending criminal complaint. He has further made a reference to the transcript of the video recording (Annexure R-1) to submit that a sum of Rs.18.00 lakhs was paid to the petitioner which is clear from the recording. He further submits that despite notices by the police officials, the petitioner has not joined the investigation. Account statements of various persons have been attached with the affidavit filed by the State to show that on different occasions money has been deposited with different persons on the asking of the accused-petitioner.

I have considered the rival submissions of the parties.

There are specific allegations against the accused-petitioner who in association with the co-accused is alleged to be carrying on the work of '*kabootar baazi*' (human trafficking) in the city of Tohana and has swindled many people of huge amount of money. The complainant was allured by his deceitful talk as he was introduced to the petitioner by accused No.3, who was his friend. The petitioner assured the complainant that he will be sent to Canada and in the process, took an astronomical amount of more than Rs.40.00 lakhs from the complainant. The family members of the complainant has made a video recording of handing over of Rs.18.00 lakhs to the petitioner, transcript of which has been placed on the record by the State with its affidavit. From the transcript, it is apparent that the petitioner is seen counting the bundles of currency notes in the presence of family members of the complainant.

When the petitioner did not send the complainant to Canada, the complainant, after reaching back to his native village started demanding the money back and on the refusal of the petitioner, the complainant lodged a complaint bearing No.151-DSP/T on 28.05.2020. The proceedings

recorded on the FIR (Annexure P-1) show that upon receipt of the complaint, the police issued notices to the accused thrice to join the investigation but the accused did not do so and eventually, the FIR was registered on 13.07.2020. In the meantime, the petitioner filed a civil suit for rendition of accounts against the complainant and another person on 10.07.2020 and notice of the suit was issued to the defendants on the same day. In the light of these facts, which have been brought out by the respondents, the argument of the counsel for the petitioner that the FIR is a counter blast to the civil suit, falls flat. The petitioner and the co-accused have apparently not only given the assurance of sending the complainant to Canada but even collected money from him and handed him a fake visa and other documents. This Court is of the view that in these circumstances, the custodial interrogation of the petitioner is imperative.

Keeping in view the above facts and circumstances, the nature of the allegations, gravity of the offence and the fact that the petitioner despite repeated notices, has failed to join the investigation, this Court is of the opinion, that he is not entitled to the discretionary relief of anticipatory bail. The petition is, accordingly, dismissed.

It is clarified that any observation made hereinabove shall not be construed to be an expression on the merits of the case.

(SUVIR SEHGAL)
JUDGE

December 04, 2020
savita

Whether Speaking/Reasoned

Yes

Whether Reportable

Yes