

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRM-M-918-2021

DATE OF DECISION: JANUARY 13, 2021

AJAY KANWAL @ MINTU

...PETITIONER

VERSUS

STATE OF HARYANA

...RESPONDENT

CORAM: HON'BLE MR. JUSTICE MANOJ BAJAJ.

PRESENT: MR. NAMIT KHURANA, 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.440 dated 5.8.2020, under Section 406, 420, 370, 384 IPC, Section 24 of Immigration Act, 2000, Police Station Karnal City, District Karnal. The petitioner is in custody since his arrest on 8.10.2020.

The allegations contained in the FIR as noticed by the Addl. Sessions Judge, Karnal in his order dated 24.12.2020, are as under:-

“It is the substance of the allegations that complainant Aditya and accused Ajay Kanwal are neighbours. Accused used to travel abroad and as such, complainant also expressed his desire to go abroad for work. In the year 2018 accused assured complainant to arrange work in German. Accused demanded money for the work. Complainant in November, 2018 deposited 1 Lakh in the bank account of accused. In December, 2018 complainant was asked to bring American \$1500 value of which in Indian currency was ₹1,10,000/-. Accused

brought complainant to Armenia, where they stayed for five months till April, 2019. Accused kept assuring complainant to arrange work in German. In the meanwhile, accused managed to take ₹5 Lakhs from the mother and sister of the complainant in India. Further, Ashish Sindiya, brother-in-law of the complainant deposited ₹1 Lakh in the account of the accused. In this way, total ₹8 Lakhs were paid to the accused. Complainant when realized that he was not likely to get work, demanded his money back and asked the accused to send him to India. Accused in May, 2019 arranged flight for complainant and left him at Nepal and fled. Complainant reached his home a one month thereafter. Whenever, complainant used to demand money, family of the accused threatened him.”

Learned counsel for the petitioner contends that admittedly, the complainant returned back to India in May, 2019, but the FIR was lodged after a delay in August, 2020. According to him, though the investigation of the case is complete, but the trial of the case is likely to consume considerable time. 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 SI Rohtash Singh has opposed the aforesaid prayer on the ground that the petitioner played fraud with the complainant and took money from the complainant in the guise of providing him work abroad. However, it is not disputed that the investigation of the case is complete.

Considering the above background, custody of the petitioner, and the fact that the offences are triable by Magistrate, this Court does not

find any reason to decline the prayer, particularly, when investigation of the case is complete and the trial is likely to take considerable time to conclude in the wake of outbreak of global pandemic, namely, COVID-19. Therefore, further custody of the petitioner may not be justified. The petitioner is presently confined in judicial custody since 8.10.2020 and is not required 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.

January 13, 2021
Gulati

(MANOJ BAJAJ)
JUDGE

Whether Reportable : Yes/No

Whether Speaking/Reasoned : Yes/No