

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

CRM-M-2449-2021

Date of decision:-19.1.2021

Gursewak Singh Mann

...Petitioner

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MR.JUSTICE H.S.MADAAN

Present: Mr.Navinder Jit Singh Dandiwal, Advocate
for the petitioner.

Mr. Saurav Khurana, DAG, Punjab.

H.S. MADAAN, J.

Case taken up through video conferencing.

This petition under Section 438 Cr.P.C. for pre-arrest bail has been filed by the petitioner – Gursewak Singh Mann, aged 48 years, resident of St.No.9-L, Balbir Basti, Faridkot, an accused in FIR No.235 dated 8.12.2020 for the offence under Section 420 IPC, registered with Police Station Dharamkot, District Moga.

Briefly stated, the prosecution story is that complainant Jaswinder Kaur married with Binder Singh, resident of village Chunga Kalan, District Moga had a daughter namely Mandeep Kaur, aged about 23 years, who wanted to go abroad. For that purpose, the complainant

contacted Gursewak Singh Mann, accused through her sister Amandeep Kaur married at Faridkot. Gursewak Singh Mann, his wife Sapna Mann and their son Gurpreet Singh Mann assured the complainant that they would send Mandeep Kaur abroad and for that purpose, complainant shall have to shell out Rs.15 lakhs. At the asking of petitioner/accused Gursewak Singh Mann and his wife, complainant had paid a sum of Rs.10 lakhs to them handing over passport of her daughter and other documents to them. The complainant further paid a sum of Rs.20,000, Rs.35,000/-, Rs.24,000/- by way of transfers to the account of Gursewak Singh Mann with Dena Bank. Subsequently, the petitioner/accused neither arranged migration of Mandeep Kaur abroad nor returned the money, in that way playing fraud with the complainant and cheating her. On the basis of written complaint submitted by complainant to SSP, Moga against Gursewak Singh Mann, his wife Sapna Mann and their son Gurpreet Singh, formal FIR in the matter was recorded and investigation in the case started.

Apprehending his arrest in this case, the present petitioner had approached the Court of Sessions seeking grant of pre-arrest bail by filing an application, which was assigned to learned Additional Sessions Judge, Moga. However, his such request was declined by learned Additional Sessions Judge, Moga vide order dated 6.1.2021. As such, the present petitioner has approached this Court by way of filing the instant petition asking for the similar relief.

Notice of the petition was issued to respondent – State.

Mr.Saurav Khurana, DAG, Punjab has appeared on behalf of respondent –

State and accepts notice on its behalf. He opposes the petition.

I have heard learned counsel for the parties besides going through the records.

Pre arrest bail is a discretionary relief and is to be granted in exceptional cases and not in routine. It is meant to save the innocent persons from harassment and inconvenience and not to screen the culprits from arrest and custodial interrogation.

Here the allegations against the petitioner are very grave and serious that he along with his wife and son had cheated an innocent woman of lakhs of rupees on the pretext of sending her daughter abroad without meaning meaning to do so.

There is a strong tendency amongst people of Punjab to migrate abroad in search of greener pastures and to fulfil that desire they can go to any extent. The wily and cunning persons take advantage of that fact posing as travel agents and fleecing innocent persons of substantial amounts of money selling them dreams of their migration. Many travel agents adopt very dubious and dangerous means for taking people abroad in the process quite often many casualties take place. Such type of elements have to be dealt with sternly. Furthermore, people repose faith in the persons, who promise to ensure their migration abroad and rarely ask for any receipt etc. after making payment so demanded and depositing the passport. Therefore, there could not possibly be any document evidencing payment of money and depositing of passport.

The version of the petitioner is fortified from the fact that some of the money had been paid to the petitioner by the complainant by

way of money transfer to his bank with Dena Bank. Though counsel for the petitioner tried to set up a case that petitioner had delivered a blank cheque in the sum of Rs.1,60,000/- to the complainant, which they tampered with and converted to Rs.11,60,000/- regarding which petitioner had submitted a complaint to SSP, Faridkot and as a counter-blast, the present FIR has been got registered. But I do not find much merit in these arguments. Admittedly, no FIR in that regard has been registered against the present complainant. Even if the submissions put forward by learned counsel for the petitioner are taken as such and if the complainant has done something wrong, she will face consequences thereof but one thing comes out to be there that petitioner along with his wife and son had fleeced the complainant of lakhs of rupees on the pretext of sending her daughter to America without actually meaning to do so and he has rightly been prosecuted for such criminal acts.

In case of *State represented by the C.B.I. Versus Anil Sharma, 1997(4) R.C.R.(Criminal) 268*, Hon'ble Apex Court had observed that custodial interrogation is qualitatively more elicitation orientated than questioning a suspect who is on anticipatory bail, in a case like this interrogation of suspected person is of tremendous advantage in getting useful informations.

Custodial interrogation of the petitioner is definitely required to effect the recovery of money paid by the complainant to the petitioner/accused as well as passport and other documents of daughter of complainant namely Mandeep Kaur. In case custodial interrogation of the petitioner is denied to the investigating agency that would leave many

loose ends and gaps in the investigation affecting the investigation being carried out adversely, which is not called for.

Thus the petition is doomed for failure and is dismissed accordingly.

19.1.2021
Brij

(H.S.MADAAN)
JUDGE

Whether reasoned/speaking : Yes/No

Whether reportable : Yes/No