IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRM-M-2507-2021 (O&M)
Date of Decision:- 8.3.2021

Surinder Pal … Petitioner

Versus

State of Punjab ... Respondent

CORAM: HON'BLE MR. JUSTICE GURVINDER SINGH GILL

Present:- Mr. Nandan Jindal, Advocate for the petitioner.

Mr. Ajay Pal Singh Gill, DAG, Punjab,
assisted by SI Walaiyti Ram.

Mr. Sarju Puri, Advocate for the complainant.

(Proceedings conducted through video conferencing)

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GURVINDER SINGH GILL, J.

1. The petitioner seeks grant of anticipatory bail in a case registered vide FIR No.01 dated 2.1.2021 under Sections 406/420/120-B IPC and Section 13 of Punjab Travel Professionals (Regulation) Act, 2014 and Section 24 of Immigration Act at Police Station City Balachaur, District Shaheed Bhagat Singh Nagar.

2. The FIR in question was lodged at the instance of Amrit Singh wherein it is alleged that Sanjeev Kumar son of Surinderpal had studied with him in college and he knew him well and Sanjeev used to frequently visit him in his house. Later, he started business of sending people abroad. The complainant was also interested in going to Canada. In May, 2019 Sanjeev

Kumar came to complainant's house and represented that he could send him to Canada and could arrange for a work permit which would cost him ₹ 20 lacs. The complainant informed him that his sister Sumanjeet Kaur resides in Canada and had applied for taking him to Canada but his application stands declined. Sanjeev Kumar assured the complainant that despite refusal, he could still manage to send him abroad for an amount of ₹ 20 lacs. The complainant alleged that Sanjeev Kumar assured him that since his father Surinderpal is a government employee, the complainant should not have any reason to worry. It is alleged that a few days thereafter, Sanjeev Kumar sent a message on Whatsapp that he was going to Spain and asked the complainant to meet him there but the complainant did not go there. Later, Sanjeev Kumar sent him a message that at that moment, he was in France and in case the complainant wanted to go to Canada then he could arrange for the same as the person conerned was accompanying Sanjeev Kumar and that he (Sanjeev Kumar) would take responsibility of the amount paid by the complainant. The complainant, however, asked Sanjeev Kumar to speak to complainant's father and Sanjeev Kumar spoke to complainant's father and assured him and undertook all the responsibility upon which the complainant was taken in by his words and agreed for going abroad through Sanjeev Kumar. The complainant sent his documents and on the asking of Sanjeev Kumar deposited an amount of ₹ 1 lac in the account of one Rajan Sood. Another amount of ₹ 20,000/- was deposited in the account of one Sunil Kalia on 13.10.2019. Sanjeev Kumar told the complainant to meet his father Surinderpal at Balachaur and that he would handover all the documents to him. The complainant and his father met Surinderpal who handed over a file to the complainant and told him to go to Delhi on the next day i.e. on 14.10.2019 and passed on a number of one Madam Alisha Aggarwal and asked the complainant to meet her at Connaught Place, Delhi. Accordingly, on 14.10.2019, the complainant and his father met Alisha Aggarwal in Delhi and submitted the documents of the complainant. On 2.11.2019, the complainant received a message from Sanjeev Kumar that the work has been accomplished. It is alleged that later Sanjeev Kumar called the complainant and asked him to arrange for an amount of ₹10,80,000/-. When the complainant told Sanjeev Kumar that he will deposit the same in his father Surinderpal's account, Sanjeev Kumar told the complainant to give the amount in cash to his father. Accordingly on 10.11.2019, the complainant, his father and his maternal uncle Satnam Singh and his relative Ashwinder Singh went and gave an amount of ₹10,80,000/- in cash to Sanjeev Kumar's father Surinderpal. It is alleged that at that time Alisha Aggarwal was also with him. At that time, the complainant was given a copy of Visa and was told that the remaining amount of ₹ 8 lacs be also given to them. It is alleged that the complainant alongwith his father, maternal uncle Satnam Singh and Ashwinder Singh again met Surinderpal and Alisha Aggarwal on 17.11.2019 and gave an amount of ₹ 8 lacs to them and demanded their passport, upon which Surinderpal assured that the passport will be reaching within 2 hours from Delhi. Although, the complainant waited till evening but he was not given the passport. Later, when the complainant contacted Sanjeev Kumar, he sent a copy of Visa on Whatsapp and e-mail ID of the complainant but the same turned out to be fake. Thereafter, the complainant kept on calling Sanjeev Kumar several times but Sanjeev Kumar used to put off the matter on one pretext or the other and neither gave the passport nor returned the money to him.

3. The learned counsel for the petitioner has submitted that admittedly the complainant and the petitioner's son were friends but it appears that subsequently on account of some differences amongst them, a false case has been foisted upon Sanjeev Kumar and the petitioner, who is a government servant has also been roped in so as to pressurize the complainant's son and his entire family. It has been submitted that a perusal of the FIR would itself show that the entire allegations of misrepresentation pertaining to procurement of a Visa and pursuant thereto supplying a fake Visa have been levelled against Sanjeev Kumar and that the allegations of entrustment of some amount to the petitioner on the asking of Sanjeev Kumar do not stand substantiated as the entire amount has been stated to have been paid in cash and that no amount was ever credited in the bank account of the petitioner.

4. Opposing the petition, the learned State counsel has submitted that since the petitioner is specifically named in the FIR and specific allegation of handing over of an amount of ₹10,80,000/- on one instance and another ₹ 8 lacs on another instance have been levelled in the FIR, the complicity of the petitioner is clearly evident and he does not deserve the concession of bail.

5. I have considered rival submissions addressed before this Court.

6. It is no doubt correct that a perusal of FIR would reveal that it is Sanjeev Kumar who had held out a representation to the complainant that he could send the complainant abroad for an amount of ₹20 lacs and had been in touch with him for the said purpose. During the course of arguments, the

petitioner had averred that since he is a government servant and has been falsely implicated, he is willing to make deposit of an amount of ₹5 lacs before the trial Court to show his *bona fide* subject to final outcome of the petition.

7. Having regard to the nature of allegations and the role attributed to the petitioner and while also noticing that the petitioner is stated to be a government servant and he himself has not held out any representation for sending the petitioner abroad, it will be debatable as to whether the petitioner indeed was hand in gloves with his son or as to whether he has been falsely implicated so as to pressurize Sanjeev Kumar. In these circumstances, this Court is of the opinion that the benefit of anticipatory bail can be extended to the petitioner.

8. The petition, as such, is accepted and it is ordered that in the event of arrest, the petitioner be released on interim bail subject to his furnishing personal bonds and surety bonds to the satisfaction of Arresting/Investigating Officer. However, the petitioner shall join investigation as and when called upon to do so and cooperate with the Investigating Officer and shall also abide by the conditions as provided under Section 438 (2) Cr.P.C.

9. The aforesaid order of grant of anticipatory bail shall, however, be subject to the condition that the petitioner deposits an amount of ₹ 7 lacs (seven lakhs) before the trial Court/Illaqa Magistrate within 2 weeks from today. The said amount may be deposited in the shape of some FDR which the petitioner shall not be entitled to encash without the permission of the Court. The trial Court shall issue directions to the bank concerned in this regard. However, upon the final decision of the matter, the said proceeds of the FDR shall be

released in favour of the complainant in case the allegations are found to be substantiated and in favour of the petitioner in case the allegations are found to be false qua the petitioner.

10. The petition stands disposed of accordingly.

8.3.2021 **(Gurvinder Singh Gill)**
kamal **Judge**

Whether speaking /reasoned Yes / No
Whether Reportable Yes / No