

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

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**CRM-16236-2021 in
CRM-M-10887-2021
Date of Decision: 01.07.2021.**

Bishan Kumar

....Petitioner.

Versus

State of Haryana and another

....Respondents.

CORAM: HON'BLE MR. JUSTICE LALIT BATRA

Present: Mr. Rajesh Duhan, Advocate for applicant/petitioner.

Mr. Vikrant Pamboo, Deputy Advocate General, Haryana
for respondent No.1.

None for respondent No.2-complainant.

Lalit Batra, J.(Oral)

Case has been taken up for hearing through Video
Conferencing.

CRM-16236-2021

This application under Section 482 Cr.P.C. is for preponing the
date of hearing of the main petition, which is already fixed for 01.09.2021.

Notice of application.

At the asking of Court, learned State counsel accepts notice and
stated that he has no objection if application is allowed.

In view of the grounds mentioned in the application and no
objection by learned State counsel, hearing of the main petition is preponed
for today and the main petition is taken on Board today itself.

CRM is allowed.

Main Case

This petition under Section 438 Cr.P.C. has been moved by petitioner-**Bishan Kumar** for grant of pre-arrest bail in case FIR No.450 dated 20.08.2020 under Sections 406 and 420 IPC and Sections 10 and 24 of Immigration Act, registered at Police Station Pehowa, District Kurukshetra.

Learned counsel for petitioner *inter alia* contends that allegations levelled in the FIR are totally concocted, false and frivolous and there is no iota of truth therein. He further submits that allegedly petitioner alongwith co-accused namely Sunil Kumar, Babita Devi and Salochna Devi had dishonestly cheated complainant-Baljinder Kaur to part with huge amount of Rs.30 Lakhs on the pretext of sending her son Manpreet Singh to Canada. He further urges that in pursuant to complaint dated 24.06.2019 (Annexure P/1) moved at the instance of complainant-Baljinder Kaur, both parties had appeared before Investigating Agency, Economic Cell, Kurukshetra, on 02.07.2019, wherein a compromise dated 02.07.2019 (Annexure P/3) was arrived at between the parties, in terms of which, petitioner was required to pay Rs.5 Lakhs to complainant-Baljinder Kaur on 09.07.2019 and also to bring her son Manpreet Singh back to India. He further urges that accordingly Baljinder Kaur (complainant) gave in writing (Annexure P/4) that she did not want any legal action on her complaint dated 24.06.2019 bearing No.95-C/Peshi dated 25.06.2019 (Annexure P/1). He further urges that in order to resolve the dispute between parties, petitioner had executed an agreement to sell dated 06.09.2019 (Annexure P/5) favouring complainant-Baljinder Kaur for sale of his land measuring 6 Kanals 8

Marlas for a sum of Rs.32 Lakhs, wherein there was categorical recital regarding receipt of Rs.32 Lakhs by the petitioner and further with assurance to get the sale deed executed and registered in respect of above said land on or before 06.11.2019 with further recital therein that possession of above said land has been delivered to complainant-Baljinder Kaur. He further urges that the petitioner is ready to get the sale deed executed and registered in pursuant to agreement to sell dated 06.09.2019 (Annexure P/5). He further urges that in pursuant to compromise dated 02.07.2019 (Annexure P/3), petitioner has already paid a sum of Rs.5 Lakhs to the complainant. He further urges that petitioner never dishonestly induced the complainant to deliver any amount and in case complainant has any grievance qua return of any money or execution and registration of sale deed of land in her favour, in that circumstance, proper and efficacious remedy for the complainant is to proceed her matter in the Civil Court. He further submits that though matter which is of purely civil nature, it has been given colour of criminal offence by the complainant just to exert pressure upon the petitioner to come to her terms. He further submits that though petitioner has no nexus whatsoever with the alleged offence, he is ready to join investigation as and when called upon to do so by the Investigating Agency, thus, concession of pre-arrest bail may be extended to him.

On the other hand, learned State counsel while opposing the cause of petitioner has vehemently argued that petitioner alongwith co-accused had dishonestly cheated complainant-Baljinder Kaur to part with

huge amount of Rs.23,85,000/- on the pretext of sending her son Manpreet Singh to Canada. He further urges that initially a sum of Rs.19,85,000/- was obtained by the petitioner from the complainant and as a security thereof, petitioner had issued two cheques favouring complainant. He further urges that apart from above amount, petitioner had taken the dollars to the tune of Rs.4 Lakhs from the complainant on the pretext of arranging flights for Manpreet Singh to Indonesia and Canada, whereas Manpreet Singh was taken to Indonesia and then brought to Kolkata and then he was again taken to Indonesia and as such Manpreet Singh became a shuttle cock in the hands of accused persons and he was never sent to Canada. He further urges that previously complaint dated 24.06.2019 (No.95-C/Peshi dated 25.06.2019 Annexure P/1) was moved by complainant-Baljinder Kaur against accused persons to the Superintendent of Police, Kurukshetra, wherein during the course of inquiry, some sort of compromise in the form of agreement to sell of land measuring 6 Kanals 8 Marlas was arrived at between parties but as safe return of Manpreet Singh from foreign country, where he was trapped, in that circumstance, any compromise arrived at due to pressure of release of her son by complainant does not relieve the petitioner-accused of his criminal activity. He further urges that on account of failure of petitioner to fulfill his commitment in terms of compromise, his dishonest intention of cheating the complainant from the very inception has come into limelight. He further submits that in view of nature of offence committed by the petitioner, his custodial interrogation is required to unveil the truth and as such he is not entitled for the concession of pre-arrest bail.

I have heard learned counsel for the parties and have carefully gone through the contents of petition as well as reply furnished at the instance of respondent No.1-State.

Without commenting anything on the merits of the case, lest it may prejudice the case of either of the parties, allegedly petitioner alongwith co-accused dishonestly induced complainant-Baljinder Kaur, to part with huge amount of Rs.30 Lakhs on the pretext of sending her son Manpreet Singh to Canada, whereas allegedly said Manpreet Singh was never sent to Canada and he was made to shuttle between Indonesia and Kolkata. Pre-arrest bail is not to be granted as a matter of routine/course in all cases. The grant or refusal of such bail depends on the variety of circumstances, the cumulative effect of which, should enter the judicial verdict. The power under Section 438 Cr.P.C. is to be exercised sparingly and in exceptional cases keeping into focus the facts and circumstances of each case. At the same time, it is well-settled that the order of anticipatory bail cannot be allowed to circumvent normal procedure of arrest and investigation by the police. The Court has also to see that the investigation is in the province of the police and an order of anticipatory bail should not operate as an in-road into the statutory investigational powers of the police, in exercising the judicial discretion in granting the anticipatory bail. The Court should not be unmindful of the difficulties likely to be faced by the Investigating Agency and the public interest likely to be affected thereby in this relevant connection. Moreover, it cannot possibly be denied that the tendency and frequency of cheating innocent persons and misappropriating

their huge amount by such fake travel agents, have been increasing day-by-day, which needs to be curbed with stern hands. In a given situation, custodial interrogation of petitioner is certainly required for complete and effective investigation. In case, same is denied to the Investigating Agency that shall leave many glaring loopholes and gaps, adversely affecting investigation, which is uncalled for. Keeping in view totality of entire scenario and nature of offence, no extra-ordinary ground has been made out in favour of petitioner for his entitlement of pre-arrest bail.

As a sequel to above, instant petition for grant of pre-arrest bail moved by the petitioner is dismissed.

(LALIT BATRA)
JUDGE

01.07.2021
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Whether speaking/ reasoned : Yes/ No

Whether Reportable : Yes/ No