104 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M No.12807 of 2021
Date of Decision : 22.04.2021

Sachin Markanda …Petitioner

Versus

State of Punjab ….Respondent

Coram : Hon'ble Mr. Justice B.S. Walia

Present : Mr. Ashutosh Gupta, Advocate for the petitioner.

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B.S. Walia, J. (VC)

1. Case is being taken up for hearing through Video Conferencing due to Covid-19 pandemic.

2. Prayer in the petition under Section 438 Cr.P.C. is for grant of anticipatory bail to the petitioner in case FIR No.268 dated 29.11.2020 registered under Section 420 IPC and Section 13, Punjab Travel Professionals (Regulation) Act, 2014 at Police Station Model Town, Hoshiarpur.

3. Sole argument of learned counsel for the petitioner is that the petitioner is innocent and has been implicated in a false case as he only introduced the complainants to travel Agent Raghubir Singh Cheema, that no money was paid to him, besides out of Rs.19 lacs alleged to have been paid by the complainants to the petitioner, cheques for Rs.7.5 lacs have been issued in the name of the complainants by Raghubir Singh Cheema as evident from copies i.e. Annexure P/3.

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4. Notice of motion.

5. Mr. Amit Mehta, learned Sr. DAG, Punjab, who is present, accepts notice and on instructions from ASI Dalwinder Singh vehemently opposes the prayer for grant of pre-arrest bail by contending that the complainants were introduced to the petitioner by their friend, Avinash Pal by stating that his friend had gone abroad through the petitioner and on that assurance the complainants talked to the petitioner for being sent to Spain whereupon the petitioner assured the complainants to send them to Spain within 01 week against total cost of Rs.19 lacs. Learned Sr. DAG further contends that as per the FIR, the complainants' gave their passports along with Rs.3,40,000/- to the petitioner at Hoshiarpur in front of Avinash Pal to send them to Spain where after the petitioner assured the complainants to send them to Spain and booked a ticket for the complainants for Spain via Bangkok and on 07.05.2019, the complainants left India for Spain but they were cheated from day one as in Bangkok the complainants were kept for 15-20 days where they were made to give 7000 Euros i.e.3500 Euros each to the friend of the petitioner and from there, they were sent to Ghana, by stating that they would be sent by a direct flight to Spain but nothing like that happened in Ghana, where again they were tortured and made to pay the remaining amount of Rs. 4,56,000/- in cash to the petitioner at Hoshiarpur through their father Amrik Singh and Uncle Satnam Singh who made payment to the petitioner in front of Avinash Pal, of which video recording was available but after taking the money, the petitioner and his partner started making excuses and demanded the rest of the money by showing fake Visas for the complainants for Germany and thereby induced the complainants' family to pay the remaining amount of Rs.5,36,000/- to the petitioner which was paid in front of Avinash Pal at Hoshiarpur but after

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receiving the money, the petitioner did not listen to the complainants and their family members and despite the complainants repeatedly requesting the petitioner to send Visa, he made one excuse or the other as a result of which, four months' of the complainants time was wasted at Ghana and thereafter, one day the friend of the petitioner took the complainants from Ghana to Ivory Coast on the assurance that they would be sent to Spain in three days which was confirmed by the petitioner but the same did not happen instead their passports were forcefully snatched by beating them and when they told the petitioner that the travel agent was committing cheating/fraud on them, he did not listen to them, as a result of which the complainants faced a lot of harassment and it was only after about nine months, that the complainants came back to India and tried to contact the petitioner but he kept on avoiding them and after waiting for two months complaint was filed.

[6] On receipt of complaint, investigation was conducted by Incharge Anti-Human Trafficking Unit, Hoshiarpur and complicity of the petitioner in the commission of the offence found and case registered.

[7] I have considered the submissions of learned counsel. Admittedly, there are serious allegations of the petitioner having defrauded the complainants of Rs.19 lacs on the false pretext of sending them to Spain and of video recording having been prepared showing money being paid to the petitioner by the father and uncle of the complainants at Hoshiarpur and of fake Malaysian passport as well as fake Visa of Germany for the complainants having been prepared. As informed by learned Sr. DAG, land was sold by the complainants family besides gold loan was availed for making payment to the petitioner on the basis of aforementioned material, the investigating agency found that the petitioner had defrauded the

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complainants i.e. Jarnail Sing and Sukhjinder Singh for a sum of Rs.19 lacs for sending them to Spain.

[8] Since there are serious allegation of the petitioner having defrauded the complainants of Rs.19 lacs on the pretext of sending them to Spain but neither sent them to Spain nor returned their hard-earned money, recovery of the amount paid as well as false Malaysian Passports and Visa of Germany is to be made and role of co accused involved ascertained, custodial interrogation of the petitioner is necessary. In case custodial interrogation of the petitioner is denied to the Investigation agency, the same would leave many loopholes and gaps in the investigation.

[9] In the facts and circumstances of the case, no case is made out for grant of anticipatory bail to the petitioner.

[10] Dismissed.

(B.S. Walia)
Judge

22.04.2021
'Rajneesh/Amit'

Whether speaking/ reasoned : Yes/No
Whether reportable : Yes/No

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