

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH.

209

CRM-M-14772-2021
Date of Decision: 19.04.2021.

Lakhbir Singh

....Petitioner.

Versus

State of Punjab

....Respondent.

CORAM: HON'BLE MR. JUSTICE LALIT BATRA

Present: Mr. Amit Dhawan, Advocate for petitioner.

Mr. Mehardeep Singh, Additional Advocate General, Punjab.

Lalit Batra, J.(Oral)

Case has been taken up for hearing through Video Conferencing.

This petition under Section 438 Cr.P.C. has been moved by petitioner for grant of pre-arrest bail in case FIR No.15 dated 11.02.2021 under Sections 406 and 420 IPC, registered at Police Station Lohian, District Jalandhar (Rural).

Learned counsel for the 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 urges that allegedly petitioner had fraudulently obtained a sum of Rs.24 lakhs from complainant party for sending Talwinder Singh to America. He further urges that as a matter of fact, petitioner had borrowed a sum of Rs.4,50,000/- on interest from

Naginder Singh, father of complainant-Talwinder Singh and on his failure

to repay the said amount, false complaint was moved against him, which led to the registration of instant FIR. He further urges that petitioner is not operating any travel agency and he is not involved in sending people abroad. He further urges that story propounded by complainant and his father that they had paid a sum of Rs.24 lakhs to petitioner for sending Talwinder Singh - complainant abroad, is highly improbable. He further urges that petitioner has been falsely implicated in the instant FIR by misusing blank signed papers which were in possession of complainant and his father as they had taken the said papers from him at the time of advancing loan of Rs.4,50,000/-. He further urges that instant case FIR is nothing but sheer abuse of process of law. He further urges that no recovery is to be effected at the instance of petitioner, therefore, his custodial interrogation is not required. He further urges 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 Investigating Agency and, 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 has cheated the complainant of huge amount of Rs.24 lakhs on the pretext of sending him abroad (America). He further urges that instead of sending the complainant-Talwinder Singh to America, he was sent to Mexico, from where he was deported to India. He further urges that petitioner is also involved in case FIR No.47 dated 24.04.2019 under Sections 120-B and 406 IPC, registered at Police Station Maqsudan and case FIR No.16 dated 11.02.2020 under Sections 406 and 420 IPC, registered at Police Station Lohian. He further urges that in view of nature of offence committed by the petitioner, his

custodial interrogation is required to recover the amount and passport and to unearth 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.

Without commenting anything on the merits of the case, lest it may prejudice the case of either of the parties, allegedly petitioner cheated the complainant of huge amount of Rs.24 lakhs on the pretext of sending him abroad. 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.PC 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 now well-settled proposition of law 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 heavy 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

19.04.2021
d.gulati

Whether speaking/ reasoned : Yes/ No

Whether Reportable : Yes/ No