

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

101

CRM-M-19865-2021.

Date of Decision: 29.06.2021.

Gurwinder Singh Bajwa

....Petitioner.

Versus

State of Punjab

....Respondent.

CORAM: HON'BLE MR. JUSTICE LALIT BATRA

Present: Mr. Baldev Singh Sodhi, Advocate for petitioner.

Lalit Batra, J.(Oral)

Case has been taken up for hearing through Video Conferencing.

In compliance of order dated 19.05.2021, learned counsel for petitioner has placed on record complete translated copy of FIR including police proceedings as Annexure P/1.

This petition under Section 438 Cr.P.C. has been moved by petitioner-**Gurwinder Singh Bajwa** for grant of pre-arrest bail in case FIR No.47 dated 01.02.2020 under Sections 406 and 420 IPC, registered at Police Station City Faridkot, District Faridkot.

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 as per allegations as set up in the FIR, co-accused Satpal Singh had cheated complainant-Manpreet Singh to the tune of Rs.16 Lakhs on the pretext of sending him abroad, which amount was given by complainant-Manpreet Singh to co-accused Satpal Singh after having sold his land. He further submits that there is no specific

amount of Rs.16 Lakhs was handed over to co-accused Satpal Singh, who has already been granted regular bail by this Court, vide order dated 19.04.2021 passed in CRM-M-38085-2020. He further urges that name of petitioner has surfaced in the array of accused on the basis of disclosure statement rendered by co-accused Satpal Singh on the allegations that the work pertaining to sanction of visa for work permit for complainant-Manpreet Singh, was entrusted by him (Satpal Singh) to the petitioner. 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.

Notice of motion.

At the asking of Court, Mr. Mehardeep Singh, Additional Advocate General, Punjab, accepts notice on behalf of respondent-State.

At this juncture, Mr. Lupil Gupta, Advocate has put in appearance on behalf of complainant-Manpreet Singh.

Complete copies of paperbook have been supplied to learned State counsel as well as learned counsel for complainant.

Learned State counsel assisted by learned counsel for the complainant while opposing the cause of petitioner has vehemently argued that petitioner alongwith co-accused namely Satpal Singh and Tajinder Singh had played active role in the commission of offence as work for obtaining visa for work permit to send complainant-Manpreet Singh to Canada, was entrusted by co-accused Satpal Singh to the petitioner. He further urges that Passport as well as other documents pertaining to complainant-Manpreet Singh were retained by petitioner and to this effect

complainant-Manpreet Singh had produced Audio CD regarding conversation of handing over Passport etc. to the petitioner. He further urges that despite repeated requests, petitioner had failed to return the documents of complainant-Manpreet Singh. He further submits that petitioner being hand in glove with co-accused Satpal Singh had obtained Passport and necessary documents of complainant-Manpreet Singh under the garb of getting prepared visa for work permit in Canada for him (complainant). He further urges that in this manner accused have cheated complainant-Manpreet Singh for huge amount of Rs.16 Lakhs on the pretext of sending him Canada, for which complainant had sold his land, but they failed to send complainant abroad. He further submits that in view of nature of offence committed by the petitioner, his custodial interrogation is required 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 alongwith co-accused cheated complainant-Manpreet Singh for huge amount of Rs.16 Lakhs on the pretext of sending him Canada. 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

29.06.2021

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Whether speaking/ reasoned : Yes/ No

Whether Reportable : Yes/ No