IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRM-M-24146-2021
Date of decision:-13.7.2021

Rajinder Kumar @ Sonu

...Petitioner

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MR.JUSTICE H.S.MADAAN

Present: Mr.Surinder Sharma, Advocate
for the petitioner.

Mr.J.S. Ghuman, DAG, Punjab.

****

H.S. MADAAN, J.

Case taken up through video conferencing.

This petition under Section 438 Cr.P.C. for pre-arrest bail has been filed by the petitioner – Rajinder Kumar @ Sonu, aged about 36 years, resident of Mohalla Rajputta, Rahon, SBS Nagar, an accused in FIR No.67 dated 2.6.2021, under Sections 406, 420, 120-B IPC, registered with Police Station Rahon, District SBS Nagar.

BRIJ MOHAN BHALLA
2021.07.13 16:11
I attest to the accuracy and
integrity of this document

In nutshell, the prosecution version is that criminal machinery in this case was set into motion by complainant – Satnam Singh son of Balwinder, resident of village Chahar Majra, SBS Nagar, who in the written complaint submitted by him to SSP, SBS Nagar contended that Rajinder Kumar @ Sonu, present petitioner has assured to send him to Canada on work permit on payment of Rs.10 lakhs by complainant to him; the complainant paid a sum of Rs.22,000/- to Rajinder Kumar @ Sonu on 18.9.2018 giving him photocopy of of his passport; subsequently the complainant transferred a sum of Rs.2 lakhs from the account of his mother Resham Kaur with Punjab National Bank, Usmanpur to the account of Rajinder Kumar @ Sonu with Capital Bank, Rahon; on 13.2.2019, he transferred a sum of Rs.70,000/- and on 14.2.2019 transferred a sum of Rs.1,10,000/- in the bank account of accused Rajinder Kumar @ Sonu; he paid Rs.17,000/- in cash; the total amount paid was 4,89,000/-. However, Rajinder Kumar @ Sonu neither ensured migration of complainant to Canada nor returned the money received by him from the complainant. Ultimately, he expressed his inability to ensure migration of complainant to Canada giving repeated assurances of returning the money. However, he did not do so, though he had given a cheque dated 5.11.2019 in the sum of Rs.4,89,000/- drawn on Capital Bank Rahon promising to return the amount. However, it transpired that sufficient amount was not there in the account of accused Rajinder Kumar @ Sonu for encashment of the cheque. Despite repeated undertakings money was not returned to complainant by Rajinder Kumar @ Sonu. Ultimately the complainant approached the police. The matter was

BRIJ MOHAN BHALLA
2021.07.13 16:11
I attest to the accuracy and
integrity of this document

inquired into and then formal FIR was registered.

After being nominated in this case, apprehending his arrest, the petitioner had approached the Court of Sessions at SBS Nagar seeking grant of pre-arrest bail by filing application, which was assigned to Additional Sessions Judge, SBS Nagar. However, his such application had been dismissed vide detailed order dated 15.6.2021. As such, the petitioner has approached this Court by way of filing the instant petition asking for the similar relief, which request is being resisted by the State counsel.

I have heard learned counsel for the parties besides going through the records.

The petitioner is specifically named in the FIR and there are clear allegations of his defrauding the complainant of an amount of Rs.4,89,000/- on the pretext of ensuring his migration to Canada without actually being able to do so and further not returning the amount to complainant despite giving repeated assurances. The issuance of cheque in the sum of Rs.4,89,000/- by the petitioner/accused in favour of the complainant fortifies the version of the complainant that he had paid that much amount to the petitioner/accused, otherwise there was no occasion for the petitioner/accused to issue cheque in that sum in favour of the complainant. As mentioned in the FIR, the cheque could not be encashed since sufficient amount in the account of the accused was not there. Non-presentation of cheque by complainant with banker of accused does not lead to drawing of any adverse inference against the complainant to the effect that the dispute between the parties was with regard to payment of

BRIJ MOHAN BHALLA
2021.07.13 16:11
I attest to the accuracy and
integrity of this document

money only and no talk for sending complainant to Canada by the petitioner/accused was there. In the written reply filed on behalf of State, a copy of agreement dated 12.3.2021 has been attached signed by both the parties vide which petitioner/accused had admitted his guilt undertaking to return the amount. In the said reply, it is clearly mentioned that another criminal case bearing FIR No.8 dated 6.2.2020, under Section 420 IPC has been registered with Police Station Sadar, Nawanshahr, District SBS Nagar containing allegations of petitioner/accused having committed fraud with the complainant in that case on the pretext of procuring a Government job for him is also there. Thus it comes out that the petitioner/accused has got a criminal bent of mind and is in habit of cheating innocent persons and committing fraud with them by making false promises without actually meaning to fulfil the same.

Thus on account of grave and serious allegations against the petitioner/accused, he is not entitled to discretionary equitable relief of pre-arrest bail, which is to be granted in exceptional cases and not in routine. It is meant to save the innocent persons from harassment and inconvenience and not to screen the culprits from arrest and custodial interrogation.

Therefore, the custodial interrogation of the petitioner is necessary for complete and effective investigation and for effecting the recovery of money received by him from the complainant. In case custodial interrogation of the petitioners is denied to the investigating agency that would leave many loose ends and gaps in the investigation affecting the investigation being carried out adversely, which is not called

BRIJ MOHAN BHALLA
2021.07.13 16:11
I attest to the accuracy and
integrity of this document

for.

In case of ***State represented by the C.B.I. Versus Anil Sharma, 1997(4) R.C.R.(Criminal) 268***, Hon'ble Apex Court had observed that custodial interrogation is qualitatively more elicitation orientated than questioning a suspect who is on anticipatory bail, in a case like this interrogation of suspected person is of tremendous advantage in getting useful informations.

Therefore, the facts and circumstances of the case do not call for acceptance of the petition. The same is doomed for failure and is dismissed accordingly.

It may be mentioned here that nothing discussed hereinabove shall have any bearing on the merits of the case.

13.7.2021 **(H.S.MADAAN)**
Brij **JUDGE**

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

BRIJ MOHAN BHALLA
2021.07.13 16:11
I attest to the accuracy and
integrity of this document