

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

210

CRM-M-26097-2021

Date of Decision : September 15, 2021

UDHAM SINGH

.....Petitioner

VERSUS

STATE OF PUNJAB

.....Respondent

CORAM: HON'BLE MR. JUSTICE JASGURPREET SINGH PURI

Present : Mr. Ferry Sofat, Advocate
for the petitioner.

Mr. Randhir Singh Thind, DAG, Punjab.

Through Video Conferencing

JASGURPREET SINGH PURI. J. (Oral)

The present petition has been filed under Section 438 of the Code of Criminal Procedure for the grant of anticipatory bail to the petitioner in FIR No.150 dated 31.12.2020 under Sections 420, 120-B IPC and under Section 24 of the Immigration Act, registered at Police Station Division-I, District Police Commissionerate Ludhiana.

The learned counsel for the petitioner has submitted that in pursuance of the order passed by this Court on 09.07.2021 the petitioner has joined the investigation and has prayed that the order granting interim protection to the petitioner may be made absolute. He submitted that it is a case where the petitioner was falsely implicated in the present case and the only allegation against the petitioner was that he had agreed with the

complainant to send him to Ukraine for work VISA for a period of two years whereas infact the complainant had gone to Ukraine but the period was of three months and he returned back and therefore, according to the learned counsel for the petitioner the matter was purely of civil nature, which has been given criminal flavour. He submitted that no recovery is to be effected from the petitioner and he is not involved in any other case and, therefore, has prayed for the grant of anticipatory bail.

On the other hand, Mr. Thind, learned DAG, Punjab has submitted that an affidavit has been filed by the Assistant Commissioner of Police (Central), Ludhiana. While referring to the affidavit, he has submitted that as per allegations, the petitioner had cheated the complainant and taken Rs.4.5 lacs for sending him abroad for work VISA for two years but the same was not done by him and recovery of the said amount is still to be effected. While referring to para no.3 of the affidavit, he has however submitted that the petitioner has joined the investigation on 10.07.2021 but his custodial investigation is required to know the modus operandi of the crime and to recover the amount.

I have heard learned counsels for the parties.

It is not in dispute that in pursuance of the order passed by this Court on 09.07.2021, the petitioner has joined the investigation. However, the learned State counsel has opposed the grant of anticipatory bail on the ground that the amount is yet to be recovered from the petitioner and that the modus operandi was required to be ascertained by taking the petitioner into custody. It is a settled law that the police cannot become a recovery agent for the purpose of recovering money from the

accused persons. A perusal of the FIR and the reply filed by the State would show that the dispute pertains to the amount of Rs.4.5 lacs and as per the FIR, the complainant was in fact sent to Ukraine but the period was of three months instead of two years and, therefore, these facts cannot become a ground for custodial investigation especially in view of the fact that the petitioner is not involved in any other case.

In view of the above, the present petition is allowed and the order dated 09.07.2021, vide which the petition was granted interim protection for joining the investigation, is, hereby, made absolute.

September 15, 2021
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(JASGURPREET SINGH PURI)
JUDGE

Whether speaking/reasoned.	:	Yes/No
Whether Reportable.	:	Yes/No