

**CRM-M-21524-2020(O&M) &
CRM-M-34009-2020(O&M)**

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

1. CRM-M-21524-2020(O&M)

Jarnail Singh

..... Petitioner

Versus

State of Punjab and another

..... Respondent

2. CRM-M-34009-2020(O&M)

Bipan Sharma @ Rana

..... Petitioner

Versus

State of Punjab

..... Respondent

Date of decision : 27.1.2021

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

Present : Mr.Subhash Kumar, Advocate
for the petitioner in **CRM-M-21524-2020.**

Mr.Kiran Kumar, Advocate
for the petitioner in **CRM-M-34009-2020.**

Mr.Saurav Khurana, DAG, Punjab.

H.S. MADAAN, J.

Cases taken up through video conferencing.

Vide this order, I shall dispose of two petitions for grant of pre-

arrest bail i.e. **CRM-M-21524-2020** filed by petitioner Jarnail Singh and **CRM-M-34009-2020** filed by petitioner Bipan Sharma @ Rana, both of them being accused in FIR No.86 dated 17.7.2020, under Sections 420 IPC and Section 13 of Punjab Travel Professionals (Regulation) Act, 2014, registered with Police Station Fattu Dzinga, District Kapurthala.

Briefly stated, the facts of the case as per the prosecution story are that complainant Bal Kishan son of Babu Ram Joshi, resident of House No.418, Model Town, Kapurthala, now resident of Jahangirpur, District Kapurthala had submitted a written complaint to SSP, Kapurthala against both the petitioners for cheating and playing fraud with him, fleecing him of lakhs of rupees on the pretext of migration of his son Jatinder Kumar Joshi to America, without actually managing to do so and their refusal to return the amount and passport of Jatinder Kumar Joshi received by them from the complainant. That complaint was marked to DSP (Crime) Kapurthala for the purpose of holding inquiry. DSP(Crime), Kapurthala found merit in the complaint and recommended registration of FIR. The FIR was accordingly registered.

Apprehending their arrest in this case, petitioners/accused had approached the Court of Sessions seeking grant of pre-arrest bail but their such applications were dismissed by the Court of learned Additional Sessions Judge, Kapurthala vide separate orders dated 22.7.2020 and 12.10.2020. As such, they have approached this Court asking for similar relief by way of filing separate petitions.

Notice of the petitions had been issued and counsel

representing the State put in appearance.

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

Learned counsel for the petitioners have contended that the petitioners are innocent and have not committed any offence; there is no document of handing over of any money or passport to the petitioners/accused and petitioners have been wrongly roped in this case.

Whereas learned State counsel has vehemently opposed the petitions.

After hearing the rival contentions, I find that it is certainly not a fit case for grant of pre-arrest bail. There is a strong tendency amongst people of Punjab to migrate abroad in search of greener pastures and to fulfil that desire they can go to any extent. The wily and cunning persons take advantage of that fact posing as travel agents and fleecing innocent persons of substantial amounts of money selling them dreams of their migration. Many travel agents adopt very dubious and dangerous means for taking people abroad in the process quite often many casualties take place. Such type of elements have to be dealt with sternly. Furthermore, people repose faith in the persons, who promise to ensure their migration abroad and rarely ask for any receipt etc. after making payment so demanded and depositing the passport. Therefore, there could not possibly be any document evidencing payment of money and depositing of passport.

The allegations against the petitioners are very grave and serious of cheating an innocent person and playing fraud with him on the

pretext of ensuring migration of his son to America, in the process fleecing lakhs of rupees from him. The son of the complainant had been taken to various small countries, made to pass through forests and difficult terrain and then illegally got entered in America, where the police arrested him and he had to spend nine months in jail incurring expenditure of thousands of dollars and was ultimately deported. The petitioners are responsible for such miserable plight of Jatinder Kumar Joshi. In case they were not in a position to arrange migration of Jatinder Kumar Joshi to America in a legal manner, they should not have given any such allurements to him and his father, the complainant and not made complainant part with lakhs of rupees for that purpose. There are specific allegations with regard to finalization of matter between the complainant and accused for Rs.23 lakhs and petitioner Bipan Sharma @ Rana having been handed over Rs.3 lakhs along with passport of Jatinder Kumar Joshi in July, 2017 at the house of complainant when Bipan Sharma had assured to arrange visa for Jatinder Kumar Joshi. There are allegations with regard to petitioner Jarnail Singh receiving Rs.4 lakhs from complainant in December, 2017. Although the petitioners were granted interim bail with a direction to join investigation and they are said to have joined investigation but as informed by the State counsel, they have not rendered full cooperation in the investigation and have not got the recovery of the money effected.

Pre arrest bail is a discretionary relief and 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.

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.

Custodial interrogation of the petitioners is definitely required for complete and effective investigation. 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 for.

Therefore, no case for grant of pre arrest bail to either of the petitioners is made out.

Thus, the petitions stand dismissed.

(H.S. MADAAN)
JUDGE

27.1.2021
Brij

1. Whether reportable? No
2. Whether speaking / reasoned? Yes