

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

(201)

CRM-M-51907-2019 (O&M)

Date of decision: - 12.10.2021

Sandeep Kumar alias Krishan and another

....Petitioners

Versus

The State of Haryana and another

.....Respondents

CORAM : HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present:- Mr. Sunil Panwar, Advocate,
and Mr. Dhanajay Singh, Advocate
for the petitioners.

Mr. Gaurav Bansal, Assistant Advocate General, Haryana

HARSIMRAN SINGH SETHI, J. (ORAL)

Petitioners are seeking anticipatory bail in FIR No.1255 dated 15.11.2019, under Sections 406 and 420 IPC and Section 10 of the Emigration Act, 1983, at Police Station City Thanesar, District Kurukshetra.

Learned counsel for the petitioners contends that the petitioners have joined investigation in terms of order passed by a Co-ordinate Bench of this Court on 06.12.2019. Order dated 06.12.2019 is as under:

“Prayer in petition filed under Section 438 of the Code of Criminal Procedure, 1973 is for grant of anticipatory bail to the petitioners in case FIR No.1255 dated 15.11.2019 registered under Sections 406, 420 of the Indian Penal Code, 1860 and Section 10 of the Emigration Act, 1983 at Police Station City Thanesar,

Kurukshetar.

Learned Counsel for the petitioners has submitted that the petitioners have been falsely implicated on allegations of fraudulently receiving amount of Rs.25,50,000/- from the complainant by deceiving him to send his sons to U.S.A. who travelled to U.S.A. On 27.05.2019 but were deported back to India on 18.10.2019. FIR was lodged with undue and unexplained delay on 15.11.2019. The complainant has concocted a false story. The petitioners did not receive any amount from the complainant. The petitioners are ready to join the investigation and they may be granted anticipatory bail.

Notice of motion.

On the asking of the Court, Mr. Ramesh Kumar Ambavta, AAG, Haryana accepts notice on behalf of the respondent-State. Copy of the paper book has been supplied to the learned State Counsel, who seeks time to complete his instructions.

In view of the facts and circumstances of the case, presence of the complainant is considered to be necessary for just and proper decision of the petition and on oral request made by learned Counsel for the petitioner, complainant is ordered to be impleaded as respondent No.2. Memo of Parties be amended accordingly.

Adjourned to 05.02.2020.

Notice to newly added respondent No.2 be issued for that date on filing of process fee by the petitioners within three working days and notice be also given dasti, if so desired.

In the meanwhile, the petitioners are directed to join the investigation as and when called upon to do so. In the event of their arrest, the petitioners shall be released on interim bail by the arresting officer/investigating officer on furnishing of bail bonds by them to the satisfaction of the arresting officer/investigating officer. The petitioners shall comply with the conditions enumerated under Section 438(2) of the Cr.P.C. failing which they shall forfeit the benefit of interim bail allowed to them.”

Learned State counsel states that though, the petitioners have joined the investigation, but they are not helping the Investigating Agency to recover the alleged amount paid by the complainant to the petitioners,

which allegations have been mentioned in the FIR and therefore, it can be safely said that the petitioners are not cooperating in the investigation.

Learned counsel for the petitioners, on the other hand, submits that as the petitioners have not taken any money, the question of recovery of the same from them does not arise and therefore, non-recovery of the said amount cannot mean that the petitioners are not cooperating in the investigation and the allegations of payment of money, which admittedly, is stated to have been given in cash, is yet to be proved during the trial and therefore, the interim bail granted to the petitioners may kindly be made absolute.

Keeping in view the facts and circumstances stated herein before, as the petitioner has joined the investigation in terms of the order passed by a Co-ordinate Bench of this Court dated 06.12.2019, the said order is made absolute.

However, the petitioners shall abide by the conditions stipulated under Section 438(2) Cr.P.C. They shall also join investigation as and when called upon to do so.

The petition stands disposed of.

(HARSIMRAN SINGH SETHI)
JUDGE

October 12, 2021
naresh.k

Whether reasoned/speaking?	Yes
Whether reportable?	No