

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

CRM-M-2163-2022

Date of decision: March 16, 2022

Babu Singh

....Petitioner

Versus

State of Punjab

....Respondent

CORAM: HON'BLE MR. JUSTICE ARVIND SINGH SANGWAN

Present: Mr. A.S. Salar, Advocate
for the petitioner.

Mr. Joginder Pal Ratra, DAG, Punjab.

Mr. J.S. Toor, Advocate
for the complainant.
(through video conferencing).

ARVIND SINGH SANGWAN, J.

Prayer in this petition is for grant of anticipatory bail to the petitioner in FIR No.476 dated 31.10.2018, under Sections 420, 120-B IPC, registered at Police Station City Barnala, District Barnala.

Counsel for the petitioner submits that as per the allegations in the FIR, registered at the instance of Sadhu Singh, it is stated that he has an old friend of petitioner Babu Singh-ex-Sarpanch. The complainant had a talk with the petitioner for sending his son and daughter to Canada. The petitioner introduced one Harjit Singh @ Bhola and his son Jagdev Singh to the complainant with an assurance that they are in the business of sending the people abroad. Later on, talks were going on between them and Rs.50 Lacs were demanded for sending son and daughter of the complainant

abroad and the deal was settled for Rs.45 Lacs. Photocopies of the certificates and passports of both the children, along with Rs.3 Lacs were paid and it was settled that the remaining amount will be paid within two weeks. On asking about the guarantee of the amount, Harjeet Singh @ Bhola Singh stated that an agreement of sell the land of Bua (paternal aunt) shall be given to him as she is living with them. Thereafter, the complainant by withdrawing the amount from the bank after selling his land, in the presence of his son Tejinder Singh and relatives Ranjeet Singh and Sukhdev Singh paid Rs.32 Lacs to petitioner Babu Singh, Harjeet Singh @ Bhola and his cousin, namely Jagmeet Singh at Khokhar and mother of the complainant, were also accompanying them. An assurance was given that 10 years visa will be granted within 3 months and balance amount be paid. Again, Rs.08 lacs were paid and the complainant made a video of payment of the amount on their mobile phone and the CD was made a part of the FIR. As a guarantee agreement of sell with regard to some land was prepared along with Jamabandi. Thereafter, the accused neither returned the amount nor could procure the visa, however, kept on demanding more amount and in that process, a total sum of Rs.43 lacs was given, which was misappropriated.

Counsel for the petitioner submits that the petitioner has made a statement during the investigation, in which he has acknowledged the allegations in the FIR. However, he has not received any amount. Counsel for the petitioner has further submitted that even Jagdev Singh made a complaint to the Director General of Police, Chandigarh after his anticipatory bail application was dismissed by this Court and Director General of Police, Punjab on 25.2.2020 directed the Senior Superintendent

of Police, Moga, look into the matter. Special reference is made on an endorsement wherein “Jagdev Singh be not arrested, SSP, Barnala be told, one Inspector Baljit Singh, is harassing.”

Counsel for the petitioner has further submitted that in the enquiry, it was found that Jagdev Singh is not a travel agent and has duped the complainant of Rs.40 lacs with the co-accused, including the petitioner on the pretext of sending his son and daughter abroad as a part of calculated conspiracy. The operative part of the enquiry reads as under :-

“From the facts which came to fore during enquiry, it is found that Harjeet Singh alias Bhola, the father of the applicant, Babu Singh, former Sarpanch son of Mukhtiar Singh resident of Daliawala District Mansa in connivance with two unknown persons and a woman had cheated Sadhu Singh of Rs.43 lacs on the pretext of sending his son and daughter abroad in a well knit conspiracy. The complainant Jagdev Singh is an educated person and is a wrestler and he is not found to be working as travel agent and he has no role in cheating Sadhu Singh. The applicant Jagdev Singh son of Harjeet Singh alias Bhola resident of village Daulatpur District Bathinda is found to be innocent in this case. In the cheating of complainant Sadhu Singh, Babu Singh former Sarpanch son of Mukhtiar Singh resident of Daliawala has performed the main role. Therefore, Babu Singh former Sarpanch is found to be an accused in the case. At the time of taking money from Sadhu Singh who were the two unknown persons and the woman, it will be known only after arresting Babu Singh former Sarpanch and interrogating him.”

It would be relevant to mention here that with regard to the endorsement noticed above for not arresting Jagdev Singh, whose

anticipatory bail application was dismissed a specific affidavit has been filed by Director General of Police, Punjab stating that the DGP has made only made an endorsement to the SSP for necessary action as per law and facts on 25.2.2020 and the inscription as noticed above that “Gurdev Singh be not arrested” is not in the handwriting of DGP, Punjab.

Learned State counsel, on the basis of the affidavit of SSP, Barnala has submitted that, in fact, the petitioner has fabricated the said endorsement just to made a ground. It is further stated that a detailed enquiry was conducted and the statement of all the concerned persons, including the petitioner was recorded. The Superintendent of Police (Investigation), Moga and Superintendent of Police (Investigation), Barnala has submitted a report after going through the investigation conducted by the Investigating Officer and in that enquiry, the petitioner refused to appear, despite receiving the summons. Since in the enquiry it was found that the petitioner, along with other co-accused persons, under a powerful conspiracy has allured complainant Sadhu Singh to send his son Tejinder Singh and daughter Gurminder Kaur aboard and have defrauded him for Rs.43 Lacs, though in that enquiry aforesaid Jagdev Singh was found innocent. Regarding the antecedents of the petitioner, it is stated that the petitioner is involved in the following FIRs :-

1. FIR No.28 dated 4.5.2017 under Sections 324, 323, 34 IPC, Police Station Jaurkian, District Mansa.
2. Case FIR No.48 dated 26.8.1992 under Section 25 of the Arms Act, Police Station Talwandi Sabo, District Bathinda.
3. Case FIR No.72 dated 23.5.2003 under Sections 452, 148, 149 IPC, Police Station City-I, Mansa.

4. Case FIR No.64 dated 13.6.2009, under Sections 325, 324, 323, 447, 148, 149 IPC, Police Station Bhikhi, District Mansa.
5. Case FIR No.38 dated 10.5.2009, under Sections 420, 467, 468, 470, 471, 120-B IPC, Police Station Maur, District Bathinda.

After hearing the counsel for the parties and going through the entire record, as well as the affidavits of the Senior Superintendent of Police, Barnala and the Director General of Police, Punjab it is found that the FIR is based on the fact finding investigation conducted by the two senior Police Officers, i.e. the Superintendent of Police (Investigation), Moga and Superintendent of Police (Investigation), Barnala holding that the petitioner along with co-accused has cheated complainant Sadhu Singh of Rs. 43 Lacs in a calculated manner by alluring him to part away with his money for providing the visa to his son and daughter but neither the visa was provided nor the money was returned, therefore, I find no ground to grant the concession of anticipatory bail to the petitioner. Therefore, the petition stands dismissed.

Considering the fact that the FIR is registered on 31.10.2018 and the petitioner is avoiding his arrest for a period of more than 3½ years, the Superintendent of Police, Barnala is directed to ensure that the investigating is completed within a period of one month by arresting the petitioner.

(ARVIND SINGH SANGWAN)
JUDGE

March 16, 2022
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Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No