

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

CRM-M-26515-2022 (O & M)

Date of decision: 14.07.2022

Vijay KumarPetitioner

V/s

State of Punjab ...Respondent

CORAM: HON'BLE MR. JUSTICE JASJIT SINGH BEDI

Present: Mr. Satnam Singh Thakur, Advocate, for the petitioner.

Mr. Kirat Singh Sidhu, DAG, Punjab.

JASJIT SINGH BEDI, J. (Oral)

The present petition under Section 438 Cr.P.C. has been filed for the grant of anticipatory bail to the petitioner in case FIR No.80 dated 08.04.2022 under Sections 420 IPC and Section 24 of the Immigration Act, registered with Police Station Division No.5, District Ludhiana.

2. The brief facts of the present FIR are that the complainant-Lakhvir Singh son of S. Bawa Singh wanted to send his daughter Gursimran Kaur abroad on a study visa. After +2, his daughter had cleared the IELTS examination. The complainant had a talk with Gagan Kumar for sending his daughter abroad and for a study loan. Gagan Kumar informed the complainant that he knows one Vijay Kumar son of Hansa Raj who is doing the work of sending people abroad. The petitioner-Vijay Kumar met the complainant through Gagan Kumar at Phillaur. On seeing the educational documents and the IELTS result of the daughter of the complainant, the petitioner-Vijay Kumar assured that the visa will be received at the earliest.

He told the complainant that Rs.18.50 lacs will be the expenditure for the study visa of the daughter of the complainant. Petitioner-Vijay Kumar received a sum of Rs.20,000/- alongwith photocopies of education certificates, IELTS result and photocopy of passport. After receiving all these, the petitioner-Vijay Kumar told them that he is preparing the file. After some days, Vijay Kumar made a telephone call to the complainant that the offer letter of his daughter had been received and an amount of Rs.3,50,000/- has to be given to him for proceeding further. The complainant paid Rs.3,50,000/- to the petitioner and his wife Seema in the presence of Gagan. Thereafter, at the asking of the petitioner, the complainant transferred an amount of Rs.2,90,000/- in the account of the petitioner through RTGS. On 08.04.2019, the complainant transferred a sum of Rs.7,10,000/- from the account of her daughter in the account of Vijay Kumar as Vijay Kumar-petitioner said that the college fee had to be deposited. Thereafter, at the asking of Vijay Kumar, the complainant transferred a sum of Rs.5,37,926/- in GIC College from the account of his daughter. After some days, the complainant received information from the petitioner/accused Vijay Kumar that the visa of his daughter had been refused. Then, the complainant demanded back the money paid by him to the petitioner/accused. An amount of Rs.5,24,842/- was received from the college on 29.11.2019 in the account of daughter of the complainant. Vijay Kumar-petitioner issued two cheques for Rs.10,00,000/- and Rs.2,00,000/- to the complainant which were dishonoured due to insufficient funds. The petitioner had cheated the complainant as he neither returned Rs.13,50,000/- to the complainant nor sent his daughter to Canada on a study visa.

The learned counsel for the petitioner contends that the

allegations in the FIR are baseless. In fact, the petitioner had not received

any amount from the complainant and the amount that had been paid by the complainant to the College/Canadian Authorities had already been refunded to him. It is, thus, further contended that the custodial interrogation of the petitioner is not required.

The learned counsel for the State, on the other hand, submits that as per their investigation, the petitioner had received the amount as set-out in the FIR, from the complainant. On being approached by the complainant, the petitioner had issued two cheques for a sum of Rs.10,00,000/- and Rs.2,00,000/- respectively, which on presentation by the complainant, were dishonoured on account of insufficient funds. Therefore, the petitioner himself had admitted the factum of receiving the money and the stand taken by him in the present petition that no money had been received by him cannot be believed. It is, thus, contended that the seriousness of the allegations and the manner in which the offence has been committed as also the fact that such kind of offences are on the rise, the petitioner ought not be granted the concession of anticipatory bail as he has allured and dishonestly induced the complainant to part with huge amount of money and then failed to return the same.

I have heard the learned counsel for both the parties.

This matter had first come up for hearing on 16.06.2022 on which date the learned counsel for the petitioner had given an undertaking that the petitioner is ready and willing to make the entire payment due to the complainant as set-out in the FIR. Based on the said undertaking, the matter had been referred to the Mediation and Conciliation Centre of this Court for exploring the possibility of an amicable settlement. However, as per the report of the Mediator, none of the parties appeared before the Mediator on

On a query, the learned counsel for the petitioner submitted that the petitioner was not willing to settle the matter with the complainant as per the undertaking given on 16.06.2022.

Keeping in view the fact that the petitioner had dishonestly induced the complainant to part with a huge amount of money and then, issued cheques to refund the amount, which were dishonoured, then appeared before this Court wanting to effect a settlement and, thereafter, backing out from the same shows that the conduct of the petitioner does not entitle him to the concession of anticipatory bail. In fact, it is apparent that the petitioner having issued two cheques to purportedly refund the money itself establishes that the amount mentioned in the FIR by the complainant said to have been paid by the complainant to the petitioner appears to be prima facie correct. Further it is a clear case of dishonest inducement on the part of the petitioner.

Therefore, the petitioner does not deserve the concession of anticipatory bail and the present petition is hereby dismissed.

It is, however, made clear that the observations made in this order are only for the purposes of deciding the present petition for anticipatory bail and shall not have any bearing on the trial.

(JASJIT SINGH BEDI)
JUDGE

July 14, 2022
sukhpreet

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No