

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH.

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CRM-M-32264-2022

Date of decision: 04.08.2022

NARINDER KUMAR

.....Petitioner

Versus

STATE OF PUNJAB

.....Respondent

CORAM: HON'BLE MR. JUSTICE SURESHWAR THAKUR

Present : Ms. Kamlesh, Advocate
for the petitioner.

Mr. M.S.Nagra, AAG, Punjab.

SURESHWAR THAKUR, J. (ORAL)

1. The instant petition has been filed under Section 438 Cr.P.C., wherein the petitioner seeks the indulgence of this court for grant of anticipatory bail.

2. In FIR bearing No.273 of 30.07.2019, registered at Police Station Phillaur, District Jalandhar, offences constituted under Sections 406 and 420 of the IPC, are embodied.

3. One Neelam Rani is alleged in the petition FIR to become introduced to the victim-complainant, by the present bail petitioner, and, leading the above Neelam Rani, to after taking some sums of money from the victim-complainant, hers providing Visa to the sons of the victim-complainant, for enabling them to travel to Iraq, but though the above promise did not become breached, as the sons of the victim did reached Iraq. However, it is alleged in the petition FIR, that the other part of the promise, rather comprised in, upon, the sons of the victim-complainant arriving in Iraq, theirs being provided there, with

work, rather became breached, leading to the sons of the victim remaining ideal for four months in Iraq, and, also resulting in theirs paying 25 dollars per day as fine for their purported illegal stay in Iraq.

4. The present bail petitioner has only introduced the victim to Neelam Rani, and, apart from that, there is no tangible evidence existing on record, displaying that any amount of the sums of money, as received by her, from the victim complainant became remitted into his account by Neelam Rani, and or, Neelam Rani paying in cash some fraction thereof to the petitioner.

5. Be that as it may, since the sons of the victim, ultimately travelled to Iraq, but yet there was breach of a further promise, to them, that they would be rather by Neelam Rani, hence provided employment in Iraq, but even if the above promise is breached, the present petitioner has no inculpable role therein, given it being narrated in the FIR, that Neelam Rani had moved an application to the Embassy in Iraq, on 03.02.2019, with an undertaking that she would ensure, that work cards for the sons of the victim rather become issued.

6. In consequence, when the incriminatory role of the petitioner, is limited to his introducing the victim to one Neelam Rani, and, when he does not have any further sharing of a *mens rea* with her, inasmuch as, at this stage, it not becoming disclosed by any tangible evidence, qua his sharing any fraction of the monies received by Neelam Rani, nor, when there is any tangible evidence, that he was the person who made all the promises concerned, to the victim. Therefore, this Court does deems it fit and appropriate, to admit the present bail petitioner to pre-arrest bail.

7. The further reason for making the above conclusion is comprised in the factum that at this stage, no evidence has been adduced by the prosecution, suggestive that in the event of the bail petitioner being enlarged on anticipatory bail, there is every likelihood of his fleeing from justice, and/or, tampering with prosecution evidence, thereupon too, it is not deemed fit to decline the relief of pre-arrest bail to the petitioner.

8. In aftermath, the present petition is allowed, and, the bail applicant-petitioner is admitted to anticipatory bail, and, in the event of his arrest, he may not be arrested by the investigating officer concerned, but subject to the bail applicant-petitioner furnishing personal, and, surety bonds in the sum of Rs.50,000/- each, to the satisfaction of the arresting officer. Furthermore, the bail applicant-petitioner, shall also give an undertaking, before the arresting officer, that as and when he is summoned through a written Hukamnama, he shall ensure his rendering his cooperation to the investigating officer. Moreover, he shall also give an undertaking, that he shall not influence the prosecution witnesses, nor shall tamper with the prosecution evidence.

9. The afore observations are meant only for the disposal of the present petition, and, shall not affect the merits of the trial arising from FIR (supra).

04.08.2022
kavneet singh

(SURESHWAR THAKUR)
JUDGE

Whether speaking/reasoned : *Yes/No*
Whether reportable : *Yes/No*