IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH.

CRM-M-39678-2022

Date of Decision:-31.10.2022

Tarvinder Kumar @ Tarvinder Sharma.

......Petitioner.

Versus

State of Punjab.

......Respondent.

CORAM:- HON'BLE MR. JUSTICE JASJIT SINGH BEDI

Present:- Mr. K.K. Saini, Advocate for the Petitioner.

Mr. Kirat Singh Sidhu, Deputy Advocate General, Punjab.

Mr. Ajaiveer Singh, Advocate for the complainant.

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JASJIT SINGH BEDI, J.

The Prayer in this petition under section 438 Cr.PC is for the grant of anticipatory bail in case FIR No.0077 dated 31.05.2022 under Sections 406, 420 IPC and Section 13 of The Punjab Travel Professionals (Regulation) Act, 2014 registered at Police Station Division No.1, District Police Commissioner Jalandhar.

2. The brief facts of the case are that the complainant Maninder Singh moved an application against the petitioner stating therein that on 10.11.2017 one Lakhwinder Singh introduced him to the petitioner at Jalandhar. The Petitioner was said to have two wives, one in India and other in Canada and he was told that the petitioner could get his family and three other relative's families settled in Canada. Allured by the petitioner he gave a sum of Rs.1.05 Crores to him. Rs.50 lacs was transferred through

RTGS from his account at HDFC Bank, Patiala. Various other cash amounts were given from time to time after withdrawing from his bank and after selling his land. The petitioner did not return his money. He (complainant) and his wife visited the house of the petitioner a number of times for return of the money as they had to return the bank loan and needed money for the education of their children but the accused/petitioner refused to return the same.

Based on this complaint an inquiry was conducted and it was found that the petitioner had played a fraud of Rs.1.05 crores on the complainant under the garb of sending the complainant and three of his relatives to Canada. It was also revealed that there was no evidence to inculpate the wife of the petitioner in the crime.

3. The petition had come up for hearing before this Court on 02.09.2022 on which date the parties sought time to explore the possibilities of compromise. However, the same has not fructified and, therefore, the petition is being heard on merits.

4. The Counsel for the petitioner contends that the allegations against the petitioner are baseless. The petitioner was running a channel under the name and style of AV New Channel and besides that was running an NGO under the name and style of Uttar Pradesh Welfare Association, Chandigarh which was doing the work of public welfare. Reference was made to some photographs attached to the petition as Annexure P-2. The complainant Maninder Singh had invested in the NGO to earn profit. In fact the complainant was doing the business of a travel agent and was introduced to the petitioner through a common friend Lakhwinder Singh. The Trust run by the petitioner was engaged in charitable activities and the donations made to the said trust were eligible for deductions under the Income Tax Act. Thus the complainant had invested money with the sole motive to earn profit . After depositing the money the complainant himself had withdrawn the same from time to time. However, on account of the lockdown and certain other factors the investment of the complainant in the NGO of the petitioner did not generate any profit for the complainant leading to the filing of the complaint and subsequent registration of the FIR.

The Counsel for the State on the other hand contends that the defence of the petitioner is completely baseless. It does not stand to reason that the complainant would invest a sum of Rs.1.05 crores in the NGO purportedly run by the petitioner so as to obtain some profit. This argument raised by the petitioner is an afterthought, and in fact the allegations against the petitioner are serious and, therefore, he is not entitled to the grant of anticipatory bail.

6. The Counsel for the complainant while supporting the counsel for the State contends that the defence set up by the petitioner is absolutely incorrect. No person would deposit such a huge amount of money with an NGO and it is apparent that the petitioner had received the amount in order to send the complainant and his family members abroad. Therefore, the custodial interrogation of the petitioner is certainly required looking at the seriousness of the allegations and to understand his modus operandi.

7. I have heard counsel for both the sides at length.

8. A perusal of the FIR would show that a sum of Rs.50 lacs was transferred to the personal account of the petitioner, a fact which has not been disputed by him. It has been claimed by the petitioner that in fact the said amount was transferred for investment in the NGO. There is no explanation as to why the amount was transferred to the personal account of the petitioner and not to the account of the NGO. Further no receipt had been issued regarding the receipt of that amount on behalf of the NGO. Even otherwise it does not stand to reason that the complainant would advance such a huge sum of money to an NGO without seeking any corresponding benefit when he himself has generated funds with difficulty to make payments to the Petitioner. Offences of this kind where the aggrieved person has been cheated on the pretext of sending someone abroad are on the rise and are required to be dealt with severely.

9. The Hon'ble Supreme Court in **_________Vs. Arun Kumar C.K. & Anr.** **Criminal Appeal No.1834/2002 @ Petition for Special Leave to Appeal (Crl.) No.7188/2022** Decided on **21.10.2022** has held that non requirement of custodial interrogation cannot be the sole ground for grant of anticipatory bail as the gravity of the offence must also be considered.

In view of the above, I find no merit in the present petition and the same is hereby dismissed.

(JASJIT SINGH BEDI)
JUDGE

October 31, 2022
Vinay

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