

**In the High Court for the States of Punjab and Haryana
At Chandigarh**

CRM-M-54641-2021 (O&M)
Date of Decision:-9.8.2022

Naresh Kumar

... Petitioner

Versus

State of Punjab

... Respondent

CORAM: HON'BLE MR. JUSTICE GURVINDER SINGH GILL

Present:- Mr. J.S. Thakur, Advocate for the petitioner.

Mr. Harpreet S. Multani, AAG, Punjab,
assisted by ASI Rajinder Singh.

GURVINDER SINGH GILL, J. (Oral)

1. The petitioner has approached this Court seeking grant of anticipatory bail in respect of a case registered vide FIR No.132 dated 23.9.2021, Police Station Division No.7, District Jalandhar Commissionerate, under Sections 420, 379-B, 148, 149, 120-B of Indian Penal Code, wherein offences under Sections 324 and 395 IPC were added later on.
2. At the time of issuance of notice of motion, the following order was passed on 10.1.2022:

“The petitioner has approached this Court seeking grant of anticipatory bail in respect of a case registered against him vide FIR No.132, dated 23.9.2021, Police Station Division No.7, District Jalandhar Commissionerate, under Sections 420, 379-B, 148, 149, 120-B IPC (Sections 324, 395 IPC added later on).

As per the case of the prosecution the complainant alleges that co-accused Ashwani represented to the complainant that he sends persons abroad and that in case the complainant wanted to send his nephew abroad i.e. to Canada, he could be sent for a consideration of Rs.11 lakhs. It is further the case of prosecution that the complainant being taken in by the said representation went to Baj Hotel Chhoti Biradri, Jalandhar, along with his friend Manish Kumar while taking an amount of Rs.11 lakhs with them. It is alleged that Ashwani Kumar along with his partner Parvesh Kumar and another unknown person were present there. Parvesh and the unknown person counted the money. Shortly thereafter another 5-6 persons armed with 'datars' are alleged to have entered the room and attacked the complainant and his friend. Manish Kumar @ Nannu Sapra on account of which sustained injuries. The accused snatched the bag containing currency notes and ran away from the spot.

Learned counsel for the petitioner has submitted that the story, as projected in the FIR does not seem truthful inasmuch as Ashwani Kumar was already known to the complainant and in case he was already known to the complainant would have known that he is into business of sending people abroad whereas from the FIR it appears that it was recently that Ashwani Kumar had disclosed the said fact to him.

It has further been submitted that in case the amount in question had already been handed over and Parvesh had countered the same, it remains unexplained as to why the co-accused attacked the complainant and his friend Manish Kumar. Learned counsel has further submitted that normally in such like cases the police would conduct some kind of preliminary inquiry, but in the present case the FIR has been lodged on the very next day when complaint was made by the complainant to the police.

Learned counsel has submitted that in any case the petitioner is nowhere named in the FIR and is not even stated to have held out any false representation to the complainant for sending his nephew

abroad and in these circumstances the petitioner deserves the concession of bail.

Notice of motion for 9.5.2022.

Meanwhile, in the event of arrest, the petitioner be released on interim bail subject to his furnishing personal bonds and surety bonds to the satisfaction of Arresting/Investigating Officer. However, the petitioner shall join the investigation as and when called upon to do so and cooperate with the Arresting/Investigating Officer and shall abide by the conditions as provided under Section 438 (2) Cr.P.C.”

3. Learned State counsel, upon instructions from ASI Rajinder Singh, has informed that although the petitioner has joined investigation but he is not cooperating with the investigation inasmuch as he has not got recovered the car allegedly used in commission of crime. Learned State counsel has, however, informed that an amount of about Rs.6 lakhs out of the defrauded amount of Rs.11 lakhs stands recovered from the co-accused. Learned State counsel has also informed that apart from the present case, the petitioner is involved in FIR No.71, dated 26.6.2019, Police Station Mehtiana, under Sections 406, 420 of Indian Penal Code and Section 13 of Immigration Act, and in FIR No.103 dated 25.10.2010, Police Station Bilga, under Sections 406, 420 of Indian Penal Code and Section 24 of Immigration Act.
4. I have considered rival submissions addressed before this Court.
5. Having regard to the facts and circumstances of the case especially the fact that the petitioner has joined investigation and a substantial amount of Rs.6 lakhs out of the defrauded amount of Rs.11 lakhs has been recovered, the petitioner can be extended the benefit of anticipatory bail. Though learned State counsel has opposed the petition on the ground that the car in question

has not been got recovered but upon a query put to learned State counsel as to whether the identity of car as regards its registration number is known to the police, no definite information could be furnished and it has been simply informed that a white coloured Swift car used in the occurrence.

6. In view of the aforestated position, wherein the identity of the car is not fully established, the fact that no such car was produced or got recovered from the petitioner cannot be said to be a circumstances so as to deprive the petitioner of grant of anticipatory bail. The petition, as such, is accepted and the interim directions issued by this Court vide order dated 10.1.2022 are hereby made absolute, subject to the condition that the petitioner shall join investigation as and when called upon to do so and cooperate with the Investigating Officer and shall also abide by the conditions as provided under Section 438(2) Cr.P.C.

9.8.2022

pankaj

**(Gurvinder Singh Gill)
Judge**

Whether speaking /reasoned

Yes / No

Whether Reportable

Yes / No