(102) IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRM-M-1227-2023
Date of Decision: 11.01.2023

MAKHAN SINGH SIDHU

... Petitioner

Versus

THE STATE OF PUNJAB

...Respondent

CORAM: HON'BLE MR. JUSTICE JASJIT SINGH BEDI

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

Mr. Kirat Singh Sidhu, D.A.G, Punjab.

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JASJIT SINGH BEDI, J (ORAL).

The prayer in the present petition under Section 438 Cr.P.C. is for the grant of anticipatory bail in case bearing FIR No.138 dated 07.10.2022 (Annexure P-1) registered under Sections 420, 34 IPC at Police Station Dayalpura, District Bathinda.

2. The present FIR came to be registered at the instance of Pritpal Singh son of Jagraj Singh who stated he was running a tractor workshop. He had two children, a son Sukhwinder Singh aged 20 years and a daughter Rupinder Kaur aged 22 years. His son Sukhwinder Singh was in Australia. The accused Makhan Singh (petitioner) and Jarmanjit Singh son of Lakhvir Singh were running an IELTS Centre in the name and style of Touchston IELTS situated at the backside of the HDFC Bank Bhagta Bhaika (Bathinda). One madam Kiran Kaur was working with the said accused. She introduced them (complainant) with the accused who agreed in writing on their letter head on 17.07.2020 that they would send his (complainant's) daughter

Rupinder Kaur to Canada after obtaining a Visa for a sum of Rs.16 lakhs. After executing the said agreement, the accused took away the passport and other necessary documents of Rupinder Kaur. An advanced of Rs.1,00,000/- was given to them on 17.07.2020 and the remaining amount was to be paid after the sanctioning of the Visa. On 22.08.2021 both the accused came to his (complainant's) house stating that the Visa had been received and sought full payment. He gave them a sum of Rs.3,50,000/- in cash and on 24.11.2021, a further amount of Rs.3,50,000/- was transferred through RTGS. Rs.3,50,000/- was transferred vide RTGS on 02.12.2021 and Rs.8,00,000/- through RTGS in the account of Amarpreet Singh at the instance of the accused persons. The accused got a Visa affixed on the passport which seemed to be suspicious. Thereafter, the accused informed him (complainant) that his daughter had to pass one exam after which she could go abroad. For this exam, they took his daughter Rupinder Kaur to Dehradun, wherein an examination took place after which they took her for a "spoken paper" to be conducted at Paonta Sahib. At Paonta Sahib, the accused informed him (complainant) that the passports and Visas had been stolen. With an intention to prove the theft as true, the accused got registered a report with the police of Police Station Paonta Sahib. In this way, the accused had cheated him. Pursuant thereto, with the intervention of relatives and respectable, a compromise was effected and two cheques of the ICICI Bank and two of the Punjab National Bank were handed over to him which came to be dishonoured on 20.09.2022. Thus, the petitioner and Jarmanjit Singh had committed the offence of cheating and on asking for return of his money, no response was given by them.

3. The learned counsel for the petitioner contends that the allegations against the petitioner and his co-accused are fabricated. In fact, the passport had been lost as was borne out from the DDR got registered by the daughter of the complainant namely, Rupinder Kaur at Paonta Sahib. The petitioner or his firm had not received any amount through RTGS from the account of the complainant. In fact, the complainant did not disclose the account number in the FIR and on the contrary stated that an amount of Rs.8,00,000/- had been transferred to one Amarpreet Singh on the asking of the petitioner. The petitioner had only given references of three to four immigration consultants and Visa agents to the complainant. It was the complainant who had chosen Bansal Travels and Immigration registered at Rampura Phul whose owner was Manoj Bansal, who had done all the paper work for him. After the offence had been committed by Manoj Bansal and his associates, the petitioner was pressurised to return the money and under the pressure of the present MLA who is the relative of the complainant, the petitioner and his associates gave undated cheques by way of a good will gesture and asked the complainant not to present the same. However, he presented the same without consulting the petitioner and the cheques got dishonoured. Proceeding under Section 138 of the NI Act were pending against the petitioner and his associates. It is thus contended that the Investigating Agency was not properly investigating the matter and the accused were Manoj Bansal and his associates as was borne out from a direction petition bearing CRM-M-8369-2022 filed in this Court which came to be disposed of vide order dated 31.03.2022 (Annexure P-4). The prayer therefore is for the grant of anticipatory bail. Reliance is placed on the

judgment in ***M/s S.K. Rai Engineers & Contractors Jaildar Market & another Versus M/s S.C. Jain Constructions Company Pvt. Ltd., CRM-M-32851-2018, decided on 31.05.2022***.

4. On the other hand, the learned State counsel contends that the petitioner and Jarmanjit Singh were running an Touchston IELTS Centre at Bhagta Bhaika (Bathinda) and through one Kiran Kaur lured the complainant to part with a sum of Rs.16,00,000/- in order to provide a Canadian Visa to his daughter. Thereafter, a false information was furnished to the Police at Paonta Sahib that the passport of Rupinder Kaur, daughter of the complainant containing a valid stamp Canadian Visa had been stolen. On being asked to return the money, cheques were issued which came to be dishonoured. The sequence of events clearly established that the complainant has been cheated of a huge amount of money and therefore, the custodial interrogation of the petitioner is certainly necessary to unearth the conspiracy between the accused along with the said Manoj Bansal and to take the case to the logical conclusion.

5. I have heard the learned counsel for the parties.

6. In the present case, the petitioner along with his co-accused have cheated the complainant of his hard earned money to the tune of Rs.16,00,000/-. Thereafter, in order to save himself from prosecution, cheques were handed over which also came to be dishonoured. The sequences as enumerated in the FIR clearly establishes that the intention of the accused from the very outset was to cheat the complainant. They first took the money and thereafter, got the daughter of the complainant to lodge a DDR at Police Station Paonta Sahib to show that the passport had been lost.

At that stage, it appears that the complainant was unaware of the *modus operandi* of the accused. Thereafter, the complainant was able to understand the actions of the accused including the petitioner. The judgment in ***M/s S.K. Rai Engineers & Contractors Jaildar Market & another*** (supra) does not in any way further the case of the petitioner. In the said case, the proceedings were quashed because the predominant nature of the allegations were civil in nature and did not make out an offence under Section 420 IPC. Despite the cheques having been dishonoured, proceedings under Section 138 of NI Act had not been initiated. It was in that context that this Court had held that mere dishonour of cheques did not amount to an offence under Section 420 IPC. In the present case, however, the facts are completely different. Initially, the complainant was cheated of an amount of Rs.16,00,000/- on the pretext of providing a Visa to the daughter of the complainant. Thereafter, in order to avoid their criminal liability, the accused issued cheques which came to be dishonoured. It was in such a situation that the FIR came to be registered and proceedings under Section 138 of NI Act were also initiated.

7. In view of the seriousness of the allegations and to take the investigation to the logical conclusion, the custodial interrogation of the petitioner is certainly required. Therefore, the present petition is hereby dismissed.

(JASJIT SINGH BEDI)
JUDGE

11.01.2023
JITESH

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