

CRM-M-4499 of 2023

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

CRM-M-4499 of 2023
Date of decision: -30.01.2023

Banta Ram and another

.....Petitioners

Versus

State of Haryana

.....Respondent

CORAM: HON'BLE MR. JUSTICE NAMIT KUMAR

Present: - Mr. J.S. Saneta, Advocate,
for the petitioners.

Ms. Gaganpreet Kaur, AAG, Haryana.

NAMIT KUMAR, J. (ORAL)

This petition has been filed by the petitioners under Section 438 Cr.P.C. seeking anticipatory bail in case FIR No.545 dated 18.10.2022 under Sections 406/420 IPC and Sections 10 & 24 of the Immigration Act, registered at Police Station Thanesar City, District Kurukshetra, Haryana.

According to the prosecution, petitioners allegedly received Rs.5,00,000/- from the complainant to send him to Cyprus and they also got issued a credit card from the bank by misusing the documents of the complainant and thereafter, obtained loan from different banks by misusing the documents of the complainant.

Learned counsel for the petitioners contends that petitioners are innocent and have been falsely implicated in the present case as they are not travel agents. He further submits that petitioners are ready and willing to join the investigation.

Per contra, learned State counsel, who appears on receipt of advance notice, opposes the prayer for grant of anticipatory bail to the petitioner and submits that their custodial interrogation is necessary to recover the money and to unearth the nexus of such illegal travel agents.

I have heard learned counsel for the parties and perused the record.

The petitioners have been specifically named in the FIR and there are specific allegations against them. Perusal of order dated 06.12.2022 passed by learned Additional Sessions Judge, Kurukshetra, shows that certain amount out of Rs.5,00,000/- was transferred through bank accounts. Petitioner No.2 had executed an affidavit in favour of the complainant in connection with the emigration transaction. Further, petitioners are involved in one more case bearing FIR No.523 dated 05.10.2022 under Sections 406, 420 IPC and Sections 10/24 of the Emigration Act, registered at Police Station City Thanesar. Therefore, *prima facie* it appears that petitioners have duped the complainant of Rs.5,00,000/- on the pretext of sending him abroad. There are serious allegations of cheating and fraud and *prima facie* involvement of the petitioners in the commission of offence. Recovery is yet to be made.

In this view of the matter, I do not deem it a fit case for grant of concession of anticipatory bail to the petitioners. The petitioners' custodial interrogation is necessary for complete and effective investigation. In case the same is denied to the investigating agency, it would leave many gaps and loopholes, adversely affecting the investigation, which is uncalled for. Moreover, investigation is at initial stage.

Needless to say, such type of cheating, duping and fraud is rampant in our society, especially in this part of the country, and is often adopted by fraudsters and unscrupulous persons on pretext of sending innocent people abroad and thereby duping them. This has become a cakewalk to amass wealth illegally overnight which needs to be curbed with an iron hand to save the innocent people.

It is settled proposition of law that power exercisable under Section 438 of the Cr.P.C. is somewhat extraordinary in character and it is to be exercised in exceptional cases. This view of mine finds support from the judgment of Hon'ble Supreme Court in ***Madhya Pradesh Vs. Pradeep Sharma, (2014) 2 SCC 171.***

Reference can be made to the judgments of the Hon'ble Supreme Court in ***Prem Shankar Prasad v. The State of Bihar and another, 2021(4) RCR (Crl.) 598*** and ***Anil Kumar Singh v. High Court of Judicature at Patna through its Registrar General and another, (2020)19 Supreme Court Cases 364*** whereby the Hon'ble Apex Court had denied the concession of anticipatory bail in view of the gravity of offences and the conduct of the petitioner.

In view of the discussion made above, the present petition being devoid of any merit is dismissed. Nothing said herein shall be construed as an expression of opinion on the merits of the case.

30.01.2023
R.S.

(NAMIT KUMAR)
JUDGE

Whether speaking/reasoned : Yes/No

Whether Reportable : Yes/No