

CRM-M-9832 of 2023

2023:PHHC:041359

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

CRM-M-9832 of 2023

Date of decision: 20.03.2023

Jarnail Singh @ Raja

.....Petitioner

Versus

State of Punjab

.....Respondent

CORAM: HON'BLE MR. JUSTICE NAMIT KUMAR

Present: - Mr. Naresh Kumar, Advocate, for the petitioner.
Mr. Adhiraj Singh, AAG, Punjab.

NAMIT KUMAR, J.

This petition has been filed by the petitioner under Section 438 Cr.P.C. seeking anticipatory bail in case FIR No.308 dated 03.12.2022 under Sections 406, 420 IPC and Section 13 of the Punjab Travel Professional Regulation Act, 2014, registered at Police Station Tanda, District Hoshiarpur.

FIR in the present case has been registered on an application filed by complainant on the allegations that he has been cheated to the tune of Rs.6 Lakh by the petitioner on the promise of sending his brother Jaskarn Singh to the USA. It was stated in the application that for sending his brother to the USA, petitioner received Rs.6 Lakh and got booked his flight from Delhi to Ethiopia. His brother remained on the way for six months. Thereafter, he was called back to India. Petitioner failed to send his brother to the USA and also to return Rs.6 Lakh. On filing of application with the DSP, Tanda, the parties were called on 23.03.2022 and a compromise was effected and the

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petitioner promised to send Jaskaran Singh to the USA. On 4.05.2022, a compromise was again effected and the petitioner agreed to pay Rs.5 Lakh through two cheques. Accordingly, cheque dated 1.08.2022 was issued, which on presentation with drawee bank thrice was dishonoured. Rs.1,50,000/- was spent to bring back Jaskaran Singh to India from Ethiopia.

Learned counsel for the petitioner contended that petitioner is innocent and has been falsely implicated in the present case. He further submitted that petitioner is not a travel agent and it was a money transaction as the complainant is a money lender. He further submits that civil dispute has been given criminal colour. He further submits that petitioner is not involved in any other case and he is ready and willing to join the investigation.

Per contra, learned State counsel, who appears on receipt of advance notice of the petitioner, has opposed the prayer for grant of anticipatory bail to the petitioner by submitting that in view of seriousness of allegations against the petitioner, his custodial interrogation is required.

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

As per law laid down by the Hon'ble Supreme Court in ***State of Madhya Pradesh v. Pradeep Sharma (2014) 2 Supreme Court Cases 171***, power exercisable under Section 438 Cr.P.C. is somewhat extraordinary in character and it is to be exercised only in exceptional cases where it appears that the person may be falsely implicated or

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where there are reasonable grounds for holding that a person accused of an offence is not likely to otherwise misuse his/her liberty.

There are specific allegations against the petitioner that on the false promise of sending the brother of complainant to USA, he cheated them of Rs.6 lakh. Thereafter, despite compromise neither he sent complainant's brother to USA nor returned their money. As per compromise, the cheque given by the petitioner to the complainant was dishonoured. In this manner, petitioner has duped the complainant of Rs.6 lakh on the false promise of sending his brother to USA.

Reliance can be placed upon the Hon'ble Supreme Court dictum passed 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 seriousness of allegations against the petitioner, he does not deserve the concession of anticipatory bail and his custodial interrogation is required.

Dismissed.

Nothing stated hereinabove shall be construed as an expression of opinion on the merits of the case.

20.03.2023

R.S.

(NAMIT KUMAR)
JUDGE

Whether speaking/reasoned : Yes/No

Whether Reportable : Yes/No