

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH
CRM-M-9190-2023 (O&M)
Date of decision: 04.07.2023

Komalpreet Kaur ...Petitioner
VS
State of Punjab ...Respondent

CORAM: HON’BLE MR.JUSTICE ARUN MONGA

Present: Mr. Dilpreet Singh Gandhi, Advocate,
For the petitioner.

Ms. Guramrit Kaur, DAG, Punjab.

Mr. B.S.Jaswal, Advocate,
For the complainant.

ARUN MONGA, J. (ORAL)

This is a petition for grant of anticipatory bail to the petitioner in case FIR No. 263 dated 26.09.2022, registered under Sections 420, 506/34 of IPC, 1860, at Police Station Jandiala, District Amritsar.

2. Petitioner is a young girl of 23 years, stated to be an English teacher and undertakes tuitions to help the aspiring candidates for clearance of International English Language Testing System (IELTS).
3. Learned counsel for petitioner submits that only role attributed to petitioner is that she referred one agent to the complainant for sending her son to Canada after providing him IELTS certificate with a good score.
4. On a previous hearing dated 03.03.2023, a Coordinate Bench of this Court presided over by HMJ Gurbir Singh, J., who was then seized of the matter, passed following order:

“The prayer in the present petition filed under Section 438 Cr.P.C. is for grant of anticipatory bail to the petitioner in case bearing FIR No.263, dated 26.09.2022, under Sections 420, 506, 34 of IPC, 1860, registered at Police Station Jandiala, District Amritsar.

Status report dated 03.03.2023 by way of an affidavit of Gurmit Singh Sidhu, PPS, Deputy Superintendent of Police, (Headquarters), Amritsar (Rural), on behalf of the respondent-State

has been filed today in the Court and the same is taken on record. Copy thereof has been supplied to the counsel opposite.

As per the allegations, complainant, namely, Racchpal Kaur came in touch with petitioner through instagram application, who gave her a false inducement to send her son Harmanpreet Singh to Canada after providing him IELTS certificate with good score. Believing her inducement, she gave Rs.5,30,000/- in cash at the workshop of her father and transferred Rs.6,27,000/- in her account. Thereafter, she started making different excuses. She and her father had cheated her. Co-accused Gurwinder Singh @ Golu is arrested. He made disclosure statement that sum of Rs.5,00,000/- was given to the petitioner.

Learned counsel for the petitioner submits that she is just 23 years of age. She is providing coaching for PTE test. Only role of the petitioner is that she referred one agent to the complainant. She did not receive any amount. Her father Gurwinder Singh @ Golu is already in custody. There was no question of giving any amount by her father to the petitioner.

On asking, learned counsel for the State submits that the said agent is not arrested in this case, since, he has paid half of the amount to the complainant.

List on 04.07.2023.

Meanwhile, in the eventuality of arrest of the petitioner in the instant case, she shall be enlarged on interim bail subject to her furnishing personal bond/surety bond to the satisfaction of Investigating Officer/Arresting Officer. The petitioner shall join the investigation as and when called upon to do so by the Investigating Agency. The petitioner shall abide by the conditions as laid down under Section 438(2) Cr.P.C. in letter and spirit.”

5. *Apropos, on resumed hearing, on a Court query, learned State counsel submits that even though petitioner is cooperating with the investigation as she has joined the same and reported to Investigating Officer as and when required but recovery of an amount of Rs.5,30,000/- allegedly paid to her is yet to be made and, therefore, she opposes the grant of any concession to her, at this stage.*

6. *Per contra, I am of the view that the very first version of the complainant herself as contained in complaint which resulted in the FIR discloses that an amount of Rs.5,30,000/- was paid to her father at his workshop where petitioner was also present. Furthermore, it is stated that another amount of Rs.6,27,000/- was also paid through bank remittance to one agent, namely, Gursimran Singh, Rs.50,000/- in cash and Rs.38,000/- as per FIR version to some other accused. Thus a total of Rs.12,45,000/- was paid by complainant.*

7. It transpires that the amount paid to the agent, who was allegedly introduced by petitioner, has already been returned in entirety. It is only the cash amount, which was given to father of the petitioner is to be recovered. *Qua* the same, petitioner’s father was taken into custody and, in any case, said payment is disputed by petitioner and, therefore, will have to be necessarily adjudicated upon by learned trial Court only after the conclusion of trial. Besides, given that petitioner is a young teacher and her future career prospects will be severely jeopardized, in case she is taken into custody merely on the suspicion that money was in fact retained by her, though admittedly same was paid to her father. That apart, petitioner is unmarried lady and her marital prospects will also be severely hit as her arrest would be a social scar on her reputation.

8. In the premise, I am of the view that at this stage, she ought to be given concession of bail subject, of course, to the conditions envisaged under Section 438(2) Cr.P.C. and order dated 03.03.2023 granting interim bail to petitioner is made absolute.

9. It is made clear that any observations made and/or submissions noted hereinabove shall not have any effect on merits of the case as the same are for limited purpose of bail hearing alone and learned trial Court shall proceed without being influenced with this order.

9. Pending application(s), if any, shall also stand disposed of.

(ARUN MONGA)
JUDGE

04.07.2023

Vandana

Whether speaking/reasoned:

Yes/No

Whether reportable:

Yes/No