

Neutral Citation No. ~~2023PHC0623~~
IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

107

CRM-M-24075-2023

Date of Decision : 11.05.2023

Jatinder Pal @ Jatinder Bhanot

.....Petitioner

Versus

State of Haryana

.....Respondent

CORAM: HON'BLE MR. JUSTICE ASHOK KUMAR VERMA

Present : Mr. Sidhant Vermani, Advocate for the petitioner.

ASHOK KUMAR VERMA, J. (ORAL)

1. The petitioner has filed the present petition under Section 438 of the Code of Criminal Procedure, 1973 for grant of anticipatory bail in case FIR No.300 dated 21.04.2023 registered under Sections 406, 420, 467, 468 and 471 of the Indian Penal Code, 1860 and Section 24 of the Emigration Act at Police Station Gate HTM, Hisar.

2. The above-said FIR was registered on the basis of complaint made by complainant-Sanjeet alleging that he is owner of Pasmate Emigration and Educational Consultant Pvt. Ltd. and used to send children abroad. On 06.03.2023 and 25.03.2023 Parveen Kumar got done the medical examination of 20 children from Civil Hospital, Chandigarh and obtained Rs.47,000/- from each child. The complainant had also got deposited amount of Rs.1,16,000,00/- in the HDFC bank account of said Parveen Kumar for sending the children to Canada and said Parveen Kumar also executed an affidavit regarding receipt of the said money. When he did not receive VISA, Passport and Work Permit, he contacted Parveen Kumar who asked that his brother Arpit Shukla is

CRM-M-24075-2023**2**

posted as ADGP in Ministry of Home Affairs, New Delhi and he (Parveen Kumar) is in his contact but when the complainant met with said Arpit Shukla, he told the complainant that Parveen Kumar is a fraud person and Punjab Police had already arrested him as he is involved in 17 other criminal cases of similar nature.

3. Learned counsel for the petitioner, inter alia, contends that the petitioner was not named in the FIR and has been falsely implicated in the present case on the basis of disclosure statement made by co-accused Parveen Kumar which is a very weak type of evidence. Perusal of FIR shows that no overt act has been attributed to the petitioner. The wife of co-accused Parveen Kumar had entered into an agreement to sell dated 21.02.2023 qua a property situated at Amritsar with the petitioner and one Gaurav Chopra for an amount of Rs.31,50,000/- and they have received money through cheques and RTGS from Parveen Kumar as an earnest money. Except this, the petitioner has no concern with Parveen Kumar. Nothing is to be recovered from the petitioner and his custodial interrogation is not required in the case. The petitioner is ready and willing to join the investigation. Therefore, the present petition may be allowed.

4. Notice of motion.

5. On the asking of the Court, Mr. Munish Sharma, D.A.G., Haryana, who is present in the Court, has accepted notice on behalf of the respondent-State and vehemently opposed the present petition on the grounds that the petitioner is in connivance with co-accused after hatching criminal conspiracy cheated the complainant and fraudulently

CRM-M-24075-2023

3

obtained crores of rupees from him. For through investigation of the case custodial interrogation of the petitioner is required. Therefore, the present petition may be dismissed.

6. I have heard learned counsel for the parties and gone through the paper-book.

7. As per disclosure statement made by co-accused Parveen Kumar he along with his wife Annu, Jitender (the petitioner) and Kuldeep hatched a criminal conspiracy to the effect that he will commit fraud with the people and co-accused Annu, Jitender (the petitioner) and Kuldeep will invest the money and in pursuance of that conspiracy, he fraudulently asked the complainant to deposit Rs.1,07,00,000/- in his bank account and also obtained Rs.9,00,000/- cash on the pretext of sending 20 children to Canada. Thereafter, he obtained Rs.47,000/- from each children to get their medical examination from Government Hospital, Chandigarh and at that time, he got filled the fake forms. For investing the money, he along with the petitioner entered into an agreement to purchase House No.34, Hargovind Avennue, Amitsar in lieu of Rs.20,00,000/- and got deposited Rs.13,00,000/- in the bank account of the petitioner and paid Rs.7,00,000/- in cash to him. The petitioner has invested the money in the business of property and that he had paid Rs.40,00,000/- to co-accused Kuldeep who opened a Saloon in Amritsar and also spent money in the marriage of his daughter.

8. The allegations against the petitioner are serious in nature. Moverover, the investigation is still going on and for thorough investigation of the case and for recovery of cheated amount, custodial

CRM-M-24075-2023

4

interrogation of the petitioner is necessary. 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. The Hon'ble Supreme Court in *State Vs. Anil Sharma : (1997) 7 SCC 187* held as under:-

“6. We find force in the submission of the CBI that custodial interrogation is qualitatively more elicitation-oriented than questioning a suspect who is well ensconced with a favorable order under Section 438 of the Code. In a case like this effective interrogation of a suspected person is of tremendous advantage in disinterring many useful informations and also materials which would have been concealed. Success in such interrogation would elude if the suspected person knows that he is well protected and insulated by a pre-arrest bail order during the time he is interrogated. Very often interrogation in such a condition would reduce to a mere ritual. The argument that the custodial interrogation is fraught with the danger of the person being subjected to third-degree methods need not be countenanced, for, such an argument can be advanced by all accused in all criminal cases. The Court has to presume that responsible police officers would conduct themselves in a responsible manner and that those entrusted with the task of disinterring offences would not conduct themselves as offenders.”

9. Keeping in view the aforementioned facts and circumstances and nature of averments, the petitioner does not deserve the concession of anticipatory bail. Hence, the present petition is hereby dismissed.

10. Nothing said herein shall be construed as an expression of opinion on the merits of the case.

(ASHOK KUMAR VERMA)
JUDGE

11.05.2023
Kothiyal

Whether speaking/reasoned	Yes/No
Whether reportable	Yes/No