

306 IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M-33818 of 2022(O&M)

Date of Decision: 08.02.2023

Manpreet Kaur & Anr.

...Petitioners

Versus

State of Punjab & Anr.

...Respondents

CORAM :HON'BLE MR. JUSTICE KARAMJIT SINGH

**Present:- Mr. Jasdeep Singh Gill, Advocate
For the petitioners.**

Mr. M.S. Nagra, AAG Punjab.

**Mr. P.S. Dhaliwal, Advocate
For the complainant.**

KARAMJIT SINGH, J.

The present petition has been filed by the petitioners under Section 438 Cr.P.C. seeking anticipatory bail in case having FIR No. 38 dated 01.07.2022, registered under Sections 420 and 120-B IPC at Police Station Bhadaur, District Barnala.

The allegations in nutshell are that complainant Gurdeep Singh Gill who desired to settle in Canada agreed to marry with petitioner No.1 Manpreet Kaur who had passed the IELTS (International English Language Testing System) exam and could easily go to Canada. The parties entered into an agreement as per which the complainant was to pay the entire expenses of petitioner No.1 with regard to her travel and studies in Canada and as and when petitioner No.1 will complete her studies and get settled there, petitioner No.1 would apply for the spouse VISA and also move

immigration papers of the complainant in order to call him to Canada. On the basis of the said agreement complainant got engaged with petitioner No.1 and on 11.09.2019 petitioner No.1 went to Canada and all the expenses were borne by the complainant. Petitioner No.1 got admission in St. Clair College, Ontario Canada and thereafter the petitioner No.1 came back and marriage ceremony was performed on 25.12.2019 and again she went back to Canada to pursue her studies and she completed her studies in April, 2021 and then applied for work permit and got the same in July, 2021 which was valid for three year. In the meantime, the complainant lodged present FIR against petitioner No.1 and her father petitioner No.2 on 01.07.2022, alleging that the complainant spent Rs.57,00,000/- on travel and studies of petitioner No.1 but now petitioner No.1 is not ready to take the complainant to Canada by moving his immigration papers as per the agreement which was executed between the parties before they entered into matrimonial alliance.

The counsel for the petitioners submits that there is no denial to the fact that the petitioners belong to very poor family and the agreement was executed between the parties and in pursuance to the same, the entire travel and educational expenses of petitioner No.1 were borne by the complainant and his family and she completed her studies in Canada. The counsel for the petitioners further submits that there was no *malafide* intention on the part of the petitioners as even after marriage the complainant forced petitioner No.1 to return to India, on which she came back in January, 2022 and thereafter she resided with the complainant, who seized all her immigration documents and the same are still lying in his custody and he is not ready to hand over the same to petitioner No.1 and is

not allowing her to go abroad. The counsel for the petitioner further submits that despite this petitioner No.1 had not lodged any complaint to the police or any other authorities with regard to aforesaid act and conduct of the complainant and she has not tried to go back to Canada without the permission of the complainant. The counsel for the petitioners further submits that even today petitioner No.1 is ready to move the immigration papers of the complainant but that would be possible only if petitioner No.1 is allowed to go abroad by the complainant as the said papers are required to be moved only by the person who is residing in Canada and further for the same even the immigration papers of petitioner No.1 are also required which are in the custody of the complainant. The counsel for the petitioners further submits that prior to her return to India in January, 2022 the petitioner No.1 was unable to file the immigration papers of her spouse as he was not vaccinated against Covid-19 infection as is evident from email dated 15.07.2021 (Annexure P-3) and even thereafter complainant failed to get himself vaccinated. The counsel for the petitioners further submits that petitioners have joined the investigation with the police in the light of the previous order of interim bail.

The present petition is resisted by the counsel appearing on behalf of the complainant who submits that as per the agreement executed between the parties, the complainant and his family spent Rs.57,00,000/- on the travel and education of petitioner No.1 but petitioner No.1 failed to fulfill her part of the contract as she never tried to move immigration papers of the complainant and that the said amount is still required to be recovered from both the petitioners.

The State counsel has apprised the Court that both the petitioners who have joined the investigation are not required by the police for any further investigation or custodial interrogation.

I have considered the submissions made by the counsel for the parties.

The counsel for the petitioners has nowhere denied the fact that as per the agreement the complainant spent huge amount on the travel and education of petitioner No.1 and only due to the same, petitioner No.1 who belongs to very poor family is able to complete her studies in Canada. Even today both the petitioners have furnished their joint affidavit that they are ready to fulfill their promise and that petitioner No.1 is ready to send the requisite papers within 15 days of reaching Canada but certain formalities are to be fulfilled by the complainant himself and that petitioner No.1 has never stated before any authority that she is not willing to take the complainant to Canada. Further, as has been submitted by the counsel for the petitioners, in case there was any intention on the part of petitioner No.1 to deceive the complainant, then she should not have returned to India in January, 2022 on the asking of the complainant and since then she has not tried to go back to Canada and had not lodged any complaint against the complainant with the police regarding his alleged act and conduct. In the given circumstances, it is a moot point as to whether petitioners can be held criminally liable for the breach of the terms and conditions of the agreement which was admittedly entered into between the parties. Furthermore, the petitioners who have joined the investigation are not required anymore by the police for further investigation or custodial interrogation. So, no purpose

is going to be served if the petitioners are subjected to custodial interrogation at this point of time.

In the light of the above, the present petition is allowed and the order of interim bail dated 09.09.2022 is made absolute. However, the petitioners are to abide by the conditions envisaged under Section 438(2) Cr.P.C. Observations made hereinabove are not to be construed as expression of opinion on the merits of the case.

08.02.2023
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(KARAMJIT SINGH)
JUDGE

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No