

IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

CRM-M-42062-2022(O&M)

Date of decision : 26.07.2023

Santosh Kumari @ Neetu Singh

... Petitioner

Versus

State of Punjab

... Respondent

CORAM: HON'BLE MR.JUSTICE VIKAS BAHLPresent: Mr. R.S. Waraich, Advocate
for the petitioner.

Mr.Ferry Sofat, Addl.A.G. Punjab.

Mr.Dinesh Mahajan, Advocate
for the complainant.**VIKAS BAHL, J.(ORAL)****CRM-7165-2023**

1. This is an application under Section 482 Cr.P.C. for placing on record documents as Annexures P-9 to P-15.

2. The application is allowed and the Annexures P-9 to P-15 are taken on record, subject to all just exceptions.

CRM-M-42062-2022

1. This is the first petition under Section 438 Cr.P.C. for grant of anticipatory bail to the petitioner in FIR no. 101 dated 25.08.2022 registered under Sections 406, 420, 120-B IPC at Police Station Doraha, Police District Khanna, District Ludhiana.

2. On 14.09.2022, this Court was pleased to pass the following

“Inter alia contends that the petitioner, who is a widow and has an 11 year old child, has been falsely implicated in the present case at the behest of a local MLA. It is submitted that the petitioner has a licence for the coaching institute of IELTS/Consultancy/Travel Agency, i.e. licence no.919 dated 08.10.2020 (Annexure P-2). It is further submitted that the complainant Gurjant Singh, along with his wife, with their marriage certificate and other documents had come to the petitioner for obtaining study visa for Nisha Rani, wife of the complainant and had given an amount of Rs.3,70,000/- as fee and thereafter the petitioner had applied for visa for said Nisha Rani for her to pursue Master of Business Administration (International) in University of New England (Sydney) and the offer letter dated 07.07.2022 issued to the wife of the complainant namely Nisha Rani had been received from the University of New England Sydney (Australia) and the copy of letter dated 07.07.2022 has been attached as Annexure P-3. It is further submitted that there was a matrimonial dispute between the complainant and his wife and the complainant, at the instance of a local MLA, has got the present FIR registered. It is stated that there was no dishonest intention in the mind of the petitioner inasmuch as in case the same was present, the petitioner would have not received the amount of Rs.3,00,000/- through RTGS. It is further stated that the said local MLA had been nursing a grudge against the petitioner due to his illegal desires and regarding the same the petitioner had given a detailed representation dated 13.08.2022 (Annexure P-4), which is prior to the registration of the present FIR. It is further stated that on 08.08.2022 some persons had come to the office of the petitioner and had informed that they had come from the office of MLA and were making enquiries regarding the personal life and institute of the petitioner and on 09.08.2022 the petitioner received a phone call from Karan Singh Seora who had asked the petitioner to come to the office of the said local MLA and had threatened that in case the petitioner would not come, then the institute will be closed by them. It is submitted that there is also an audio recording of the local MLA. It is further submitted that in the present case, the complaint was given on 25.08.2022 at 7:07 PM and the FIR was registered at 8:01 PM i.e., within one hour without even conducting any enquiry into the matter.

Notice of motion for 29.09.2022.

In the meantime, in the event of arrest, the petitioner is ordered to be released on interim bail subject to her furnishing personal bonds and surety to the satisfaction of Arresting / Investigating Officer. However, the petitioner shall join the investigation as and when called upon to do so and shall abide by the conditions as provided under Section 438(2) Cr.P.C.

(VIKAS BAHL)
JUDGE

September 14, 2022.”

3. On 27.03.2023, a coordinate Bench of this Court was pleased to pass the following order:-

“Learned counsel for the petitioner submits that despite joining the investigation on various dates, the Investigating Officer is behaving indifferently so as to project a case of non-cooperation by the petitioner in the investigation.

Learned counsel for the petitioner further contends that the petitioner is running a coaching institute of IELTS/Consultancy/Travel Agency and is also having licence for the said business. The complainant along with his wife came to the petitioner with their marriage certificate and another documents for obtaining study visa for Nisha Rani i.e. wife of the complainant. They paid fee of Rs.3,70,000/- and the petitioner thereafter applied for visa for Nisha Rani as she wanted to pursue Master of Business Administration(International) in University of New England (Sydney). Offer letter dated 07.07.2022 was issued in the name of wife of the complainant Nisha Rani and the same was received from the University of New England Sydney (Australia). There was a matrimonial dispute between the complainant and his wife.

Learned counsel for the petitioner further contends that the local MLA played some role in getting the present FIR registered. There was no dishonest intention on behalf of the petitioner at any point of time otherwise the petitioner would not have received an amount of Rs.3,70,000/- through RTGS in her account. The petitioner has alleged some instances of mala fides against the local MLA which has been recorded in the order dated 14.09.2022 at the time of issuance of notice of motion.

Learned counsel for the petitioner further submits that CRWP No.8682 of 2022 is pending for 18.05.2023.

List along with CRWP No.8682 of 2022 on 18.05.2023.

Interim order to continue.

27.03.2023

(RAJ MOHAN SINGH)
JUDGE”

4. Learned State counsel has submitted that although the petitioner has joined investigation but has not returned original 10+2 class

of the complainant is yet to be recovered from the petitioner.

5. Learned counsel for the complainant has also opposed the prayer for grant of anticipatory bail along the same lines and has further submitted that an amount of Rs.3,70,000/- has been taken from the complainant but actually the amount to be spent to apply for a Visa is much less and the petitioner is not returning the balance amount.

6. Learned counsel for the petitioner, in rebuttal, has reiterated the arguments, which have been noticed in the orders dated 14.09.2022 and 27.03.2023 reproduced hereinabove. It is submitted that the petitioner has already joined the investigation after having been granted interim protection by this Court but the State is opposing the same on account of pressure from the local MLA. It is further submitted that the present dispute is apparently a civil dispute which has been given a cloak of a criminal offence and that the petitioner, who has a licence for running a coaching institute of IELTS/Consultancy/ Travel Agency, had taken the money from the complainant and his wife who had come together to apply for a study visa for Nisha Rani. Learned counsel for the petitioner has made a reference to Annexure P-15 to show that the visa in the name of said Nisha Rani was applied by the petitioner and the same was rejected as she was found to be ineligible for the same under Section 214(b) of the U.S. Immigration and Nationality Act. Reference has also been made to Annexures P-13 and P-14 to show that visa for Sydney and Malbourne had also been applied for said Nisha by the petitioner and the same was also not granted without any fault on the part of the petitioner. It is submitted that the amount which was taken by the petitioner from the complainant and his wife was the fee and the expenses for applying for the said visas and in case the petitioner was to

Rs.3,00,000/- through RTGS. It is further submitted that in the present case, the complaint has not been filed by Nisha but has been filed by her husband and that there is dispute between Nisha Rani and Gurjant Singh inasmuch as petition Annexure P-12 has been filed by Nisha Rani against Gurjant Singh under Section 13 of the Hindu Marriage Act for divorce and in the said petition, it has been stated by Nisha Rani that her marriage was performed with Gurjant Singh on 12.10.2021 according to Sikh rites and ceremonies at Ludhiana but thereafter a dispute had arisen and thus, she is seeking divorce. It is stated that since the petitioner had applied for the visa of said Nisha, thus, the question of taking 10+2 class certificate or the passport of the complainant does not arise. It is further submitted that at any rate, even with respect to said Nisha, scanned copies of documents have been taken as it is only the scanned copies which are required for the purpose of applying for the visas and since the visas were rejected, thus, no other document was ever asked for. It is further highlighted that as per the status report submitted, reference has been made with respect to one Paramjit Kaur wife of Baldev Singh having given a statement against the petitioner but the said Paramjit Kaur wife of Baldev Singh has given an affidavit which has been annexed as Annexure P-9 with CRM-7165-2023 and in the said affidavit, averments have been made that she was called in the office of MLA and complaint was submitted by her on the instructions of the MLA and she does not wish to take any action against the petitioner. It is argued that present FIR has been registered only to extract money from the petitioner.

7. This Court has heard learned counsel for the parties and perused the paper book.

8. The petitioner is a 36 year old widow and has a licence dated

Consultancy / Travel Agency and that she had applied for visa of USA, for the wife of the complainant, but the said visa was rejected, as is apparent from Annexure P-15. A perusal of Annexures P-13 and P-14 would show that the petitioner had also applied for the visa of Australia and Sydney, for said Nisha wife of complainant. It is the case of the petitioner that said visa has also been rejected and amount of Rs. 3,70,000/- taken by the petitioner is the fee and expenses for applying for the same. The petitioner has also placed on record a divorce petition Annexure P-12 filed by said Nisha Rani against the complainant under Section 13 of the Hindu Marriage Act for decree of divorce on the ground of cruelty which *prima facie* shows that there is dispute between Nisha Rani and Gurjant Singh (complainant). The petitioner has also annexed a representation dated 13.08.2022 (Annexure P-4) addressed to the Chief Minister, Punjab in which allegations have been made against the local MLA and said representation is prior in time to the registration of the FIR. As per the status report, statement of one Paramjit Kaur wife of Baldev Singh is stated to have been taken by the police, making allegations against the present petitioner with respect to her being duped of money for sending her daughter Manpreet Kaur abroad. The petitioner has placed on record affidavit annexed as Annexure P-9 along with CRM-7165-2023 in which it has been stated in paragraph 4 that the said complaint was filed by her on the instructions of the MLA and that she does not wish to take any action on the said complaint as she was misguided. With respect to the 10+2 school certificate and the passport, learned counsel for the petitioner has vehemently submitted that it is only the scanned copies of the documents which are required for the purpose of applying for visa and not the original documents, and that since the

taking any further documents muchless the original documents from the complainant or Nisha does not arise. It is submitted that in case the said documents were in possession of the petitioner, then she would have handed them over to the police and would not have risked her liberty. It is argued that the dispute in the present case is a civil nature which has been given a cloak of a criminal offence.

9. Keeping in view the above said facts and circumstances, the present petition is allowed and the interim order dated 14.09.2022 is made absolute.

10. Nothing stated above shall be construed as an expression of opinion on the merits of the case and the trial would proceed independent to the observations made in the present case which are only for the purpose of adjudicating the present bail petition.

(VIKAS BAHL)
JUDGE

July 26, 2023
Davinder Kumar

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