

CRM-M-44538-2023 (O&M)

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IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRM-M-44538-2023 (O&M)

Date of decision: October 11, 2023

Harjinder Singh alias Jhonny

....Petitioner

versus

State of Punjab

....Respondent

CORAM: HON'BLE MR. JUSTICE ARUN MONGA**Present:-** Mr. Nitin Mittoo, Advocate for petitioner.

Mr. Mohit Thakur, AAG Punjab.

Mr. J.S. Ghumman, Advocate for complainant.

ARUN MONGA, J. (ORAL)

Status report by way of affidavit dated 11.10.2023 has been tendered by learned State counsel, in course of hearing, which is taken on record.

2. Following the denial of bail by the learned trial Court, the petitioner is now before this Court seeking his release as an undertrial in a case FIR No.101 dated 06.06.2023, registered under Section 306 read with Section 34 of the Indian Penal code, 1860 (hereinafter referred to as 'IPC'), at the GRP Ludhiana, Police Station in GRP Ludhiana.

3. The prosecution's case is that the complainant, Ashok Kumar, stated his intention to send his son, namely, Himanshu Tandon (also known as Rahul), abroad. His neighbor, Harjinder Singh (petitioner), claimed he would send his son abroad. In August 2022, the complainant visited an office where he was introduced to individuals named Harpreet, Karan, Hardeep Gill (known as Bobby), and Ravinder Aggarwal (referred to as Pappu). A deal was struck for Rs.35 lakh, and the passport of the complainant's son was handed over to them. On August 07, 2022, the complainant was summoned to the petitioner's office, where he received Rs.5 lakh in cash. He also deposited Rs.1 lakh into his account. In return, they provided a ticket to Malaysia for his son. However, when his son reached the airport, they demanded Rs.5,70,000. The police apprehended the

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complainant's son in Mexico, where he stayed for four days. An amount of Rs.2,50,000 was deposited into their account through a relative of the complainant, and they demanded Rs.16 lakh for his son's release from a Camp Office. Eventually, his son was sent to Mumbai by the Mexico Police. In September, the complainant received a phone call from his son, who reported the fraud committed by the aforementioned five individuals. The complainant sent Rs.1,30,000 to his son to be paid at Mumbai Airport.

3.1. Due to the enticement of these individuals, they sent Himanshu Tandon to Bangkok through Mauritius on September 16, 2022. They continued to demand money and sent his son to different countries. When Himanshu Tandon requested his money back, they began harassing him. The complainant's wife filed a complaint with SSP, Kapurthala. Subsequently, Simran, Jaswinder Kumar (also known as Vicky), and Heera (referred to as Lalli) received Rs.8 lakh from Himanshu Tandon to double it, but they failed to do so, leaving Himanshu Tandon distraught.

3.2. On June 05, 2023, the son of the complainant left home, claiming that he was distressed by these individuals who were pressuring him to commit suicide. Later that night, the complainant received a call from the police reporting his son's suicide. During the investigation, the petitioner was arrested and has been in custody since July 25, 2023.

4. First and foremost, the learned counsel for the petitioner argues that the petitioner's co-accused, Simranjit Singh and Jaswinder Kumar, have already been granted interim anticipatory bail by this Court in orders dated August 17, 2023, and August 25, 2023, passed in CRM-M-40120-2023 and CRM-M-42283-2023, respectively.

4.1. The petitioner's counsel contends that the deceased had invested Rs.8 lakhs with some individuals who promised to double the amount, but he was allegedly cheated and became frustrated, leading to his suicide. No suicide note has been recovered, and the complainant alone has provided the entire narrative to the police. The financial capacity of the complainant and the deceased was not substantial enough to invest Rs.35 lakhs and an additional Rs.8 lakhs with the accused persons. This dispute is distinct, and complaints have already been filed by the complainant and his family in this regard. The

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complainant's son was accused of stealing a laptop and cameras and was apprehended by the police while attempting to sell them in the market. There is no case of alleged abetment against the petitioner. Therefore, the petitioner claims to have been falsely implicated in this case.

5. Per contra, the learned State counsel vehemently opposes the petition, expressing concerns about the petitioner potentially fleeing during trial proceedings if granted bail. He contends that the allegations against the petitioner are grave. The petitioner, along with co-accused, instigated the son of the complainant to commit suicide. He submits that there is one other case pending against the petitioner.

6. I have heard the rival arguments and reviewed the case file.

7. In response to a query from the Court, under instructions from ASI Rakesh Kumar, learned State counsel informs that the challan has already been filed. Thus, the investigation regarding the petitioner is complete, and he is not required for custodial interrogation.

8. At this stage, the allegations against the petitioner are subject to trial. The trial's progress has been slow, and it is anticipated to take a considerable amount of time. Bail serves the purpose of allowing an accused to remain free until their guilt or innocence is determined. In contrast, the petitioner has been in detention since July 25, 2023, for more than 02 months.

9. The petitioner's continued preventive custody is based on an unsubstantiated suspicion that he might tamper with evidence or influence witnesses. There is no probability of tampering with evidence as it has already been seized by the investigating agency.

10. Co-accused of the petitioner have already been granted concession of interim anticipatory bail by this Court.

11. Be that as it may, the offence allegedly committed by the petitioner is non-violent in nature, and in that sense, his release on bail does not pose a threat to society at large in terms of committing any violent crime.

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12. The petitioner is stated to be a 34-year-old person. Having a fixed abode, it is unlikely that he poses any flight risk and/or will flee from trial proceedings.
13. Considering the overall scenario, without commenting on the merits of the case, the instant petition is allowed. I am of the view that no useful purpose would be served by keeping the petitioner in further preventive custody.
14. Accordingly, the petitioner is ordered to be released on bail, in case not required in any other case, upon furnishing bail bonds and surety bonds to the satisfaction of the learned trial Court, where his case is being tried, and in case he/she is not available, before the learned Duty Judge, as the case may be.
15. In case the petitioner is found involved or gets involved in any offense while on bail, the prosecution shall be at liberty to seek the cancellation of his bail in the instant case.
16. It is made clear that any observations and/or submissions noted hereinabove shall not have any effect on the merits of the case, as they are for the limited purpose of the bail hearing alone, and the learned trial Court shall proceed without being influenced by this order.
17. Pending applications, if any, shall also stand disposed of.

(ARUN MONGA)
JUDGE

October 11, 2023
mahavir

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