

204 IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M-47026 of 2022(O&M)

Date of Decision: 03.02.2023

Thomas Masih

...Petitioner

Versus

State of Punjab

...Respondent

CORAM :HON'BLE MR. JUSTICE KARAMJIT SINGH

Present:- Mr. D.S. Gandhi, Advocate
For the petitioner.

Mr. C.L. Panwar, Addl. AG Punjab.

KARAMJIT SINGH, J.

The present petition has been filed by the petitioner under Section 438 Cr.P.C. seeking anticipatory bail in case having FIR No. 86 dated 10.07.2019, registered under Sections 419, 420, 465, 467, 468, 471 and 120-B IPC and Section 13 of Punjab Human Smuggling Act at Police Station Majitha Road, District Amritsar.

As per the allegations recorded in the FIR the petitioner along with co-accused lured the complainants and so many other persons and defrauded them on pretext of sending them to Dubai by taking amount of Rs.1, 15,000/- to Rs. 1,20,000/- per head and the accused persons failed to fulfill their promise and also refused to return the amount collected from complainants and other persons.

The counsel for the petitioner *inter alia* submits that the petitioner is Thomas Masih and there are no allegations in the FIR that he received any money from the complainants or some other person on the

pretext of sending them to Dubai. The counsel for the petitioner further submits that there is no document available with the complainant or the prosecution in order to establish that any money was ever entrusted to the petitioner or that he ever promised to send any person abroad. The counsel for the petitioner further submits that co-accused Manvinder Singh, Gurpreet Singh and Gurpal Singh are already granted concession of anticipatory bail by the co-ordinate Bench of this Court vide orders Annexures P-4, P-5 and P-6. The counsel for the petitioner further submits that the petitioner is also willing to join the investigation. So, prayer is made that the present petition be allowed.

The present petition is resisted by the State counsel who submits that the petitioner is the main person who while disclosing his name as Suraj Parkash collected huge amount from different persons with promise to send them to Dubai and he also did not return the concerned passports and thereafter closed his office. The State counsel further submits that even from the perusal of order Annexure P-6 whereby co-accused Gurpal Singh is granted anticipatory bail, it is apparent that all the victims contacted petitioner Thomas Masih also known as Suraj Parkash, who gave assurance to them that VISA of Dubai would be arranged for them within 10-15 days and on the basis of said promise he took Rs.1,20,000/- per person and thereafter the petitioner failed to send the victims to Dubai and even did not return their passports. The State counsel further submits that the custodial interrogation of the petitioner is necessary for proper investigation of the case.

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

There is no doubt regarding the fact that other accused namely, Manvinder Singh, Gurpreet Singh and Gurpal Singh who were also named in the FIR are granted concession of anticipatory bail by the co-ordinate Bench of this Court vide orders Annexures P-4 to P-6. There are specific allegations in the FIR that the petitioner collected amount of Rs.1,20,000/- per head from the victims on the pretext of sending them to Dubai and thereafter he failed to do so and also misappropriated the entire amount. This fact is also *prima facie* established from the perusal of order Annexure P-6 whereby co-accused Gurpal Singh was granted anticipatory bail by the co-ordinate Bench of this Court.

In the light of above, as the petitioner is facing serious allegations that he misappropriated huge money by defrauding various persons including the complainants by taking money from them @ Rs. 1,20,000/- per head with promise to send them to Dubai but thereafter he failed to do so, this Court is of the view that the custodial interrogation of the petitioner is necessary for proper and effective investigation of the present case. The petitioner is not entitled to get concession of discretionary relief under Section 438(2) Cr.P.C.

Consequently, the present petition is hereby dismissed. However, observations, if any, made hereinabove are not to be construed as expression of opinion on the merits of the case.

03.02.2023
Jiten

(KARAMJIT SINGH)
JUDGE

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No