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IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRM-M-52034-2023 (O&M)
Date of decision: October 18, 2023

Rajeev Arora

….Petitioner

versus

State of Haryana

….Respondent

CORAM: HON'BLE MR. JUSTICE ARUN MONGA

Present:- Mr. Z. A. Siddiqui, Advocate for
Mr. Sukhdeep Singh, Advocate for petitioner.

Mr. Vikas Bhardwaj, AAG Haryana.

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ARUN MONGA, J. (ORAL)

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.391 dated 16.05.2023, registered under Sections 406, 420, 506 of the Indian Penal Code, 1860 (hereinafter referred to as 'IPC') and Sections 10 and 24 of the Emigration Act, 1983 (hereinafter referred to as 'Act of 1983'), at City Yamuna Nagar Police Station, in District Yamuna Nagar.

2. According to the prosecution's account, the complainant, Ankit Kumar, filed a complaint against Harish Arora, Rajeev Arora (the petitioner), and Manmeet Arora (Harish Arora's wife) stating that the accused were operating a firm under the name of M/s Visa Guru. The complainant contacted the accused with the intent of obtaining work visas for himself, his wife, and his son. According to the agreement, the accused agreed to arrange work visas for Canada in exchange for an amount of Rs.25 Lacs. The complainant handed over his, his wife's, and his son's passports and original documents to the accused. Out of the agreed-upon amount, Rs.5 Lacs were paid to the accused via cheques and Google Pay. Specifically, Rs.3 Lacs were paid through a cheque in January 2022, Rs.1,50,000/- was paid through cheque No.663912 in September 2022 to the account of accused No.1. An amount of Rs.50,000/- was transferred through Google

Pay/PhonePe/UPI ID to the petitioner's account. In October 2022, the accused informed the complainant that the work visa for Canada was no longer available and promised to arrange work visas for Australia for the same amount. However, they demanded an additional Rs.3 Lacs in cash, which the complainant paid, with Rs.2,50,000/- in cash handed over to the accused in their office in December 2022, and Rs.50,000/- transferred via UPI to the petitioner's account. In addition, the accused obtained a blank cheque for Rs.22 Lacs from the complainant, assuring him that preparations to go abroad were underway, as their visas were almost approved, and they asked the complainant to arrange the remaining amount. Subsequently, the accused did not respond satisfactorily to the complainant's inquiries about the visas. Harish Arora instructed the complainant to contact his brother and wife for updates, but they also failed to provide satisfactory answers. They claimed that such work required time, but the complainant did not receive the promised visas. The accused then turned off their mobile phones and closed their office. For a period, the complainant was unable to contact them. When he finally reached out to Harish Arora, he was threatened and told that the money would not be returned. Later, the complainant learned that the accused had engaged in fraudulent activities with several others under the pretense of sending them abroad. This led to the registration of the present case based on the aforementioned complaint.

2.1. During the investigation, relevant records were obtained from the concerned bank(s). On August 21, 2023, the petitioner was arrested, and a disclosure statement was obtained. The offense under Section 120-B IPC was also invoked. The other accused individuals have yet to be arrested, and the investigation is ongoing.

3. Firstly, the learned counsel for the petitioner argues that the co-accused, Manmeet Arora, has already been granted interim anticipatory bail by this Court in an order dated 06.09.2023 under CRM-M-44802-2023.

3.1. The learned counsel for the petitioner contends that there are no specific allegations against the petitioner. His inclusion in the case is primarily due to being the younger brother of Harish Arora, a co-accused, with the intent of exerting pressure to recover money allegedly paid to other co-accused. Nevertheless, the petitioner expresses willingness to unconditionally refund Rs.1,00,000/-, which is alleged to have been transferred to his bank account through Unified Payment Interface (UPI), although he asserts that this occurred without his knowledge.

3.2. The counsel further argues that neither the complainant nor the police have identified anyone apart from the petitioner as a soft target who could be easily apprehended from his workplace in Rajouri Garden, Delhi. The petitioner has been managing his own finances and has no dealings or business ties with Yamuna Nagar or with individuals connected to the alleged firm, M/s Visa Guru. He has been mentioned in the FIR in a vague manner, and no explicit acts of inducement have been attributed to him. The counsel argues that the petitioner is the younger brother of Harish Arora, and another co-accused, Manmeet Arora, is his sister-in-law (bhabhi), and the petitioner is unaware of the dealings and business practices of Harish Arora and his family.

3.3. The counsel also contends that the petitioner's brother and co-accused is currently absconding. Therefore, the petitioner's inclusion as an accused is an attempt to exert collateral pressure on him while the alleged principal accused, his brother, remains at large.

3.4. The counsel further argues that the agreement/Memorandum of Understanding (MoU) dated 29.01.2022 is between Harish Arora and the complainant and does not cover the petitioner's wife and son. Therefore, the allegations in the complaint regarding work permits/visas for the complainant and his family are false and appear to be aimed at harassing the petitioner as a soft target. The counsel also points out that no notice under Section 41 of the Criminal Procedure Code (Cr. P.C.) was served on the petitioner before his arrest.

3.5. Finally, it is argued that there is nothing to recover from the petitioner, and he does not need further custodial interrogation. There is no indication that the petitioner would tamper with evidence or influence prosecution witnesses, and he is not involved in any other case.

4. On the contrary, learned State counsel strenuously opposes the petition, expressing concerns about the possibility of the petitioner fleeing from trial proceedings

if granted bail. Also argues that the petitioner has committed a serious offense. On a Court query, he does not controvert the grant of interim anticipatory bail to the co-accused. He also submits that petitioner is involved in two more cases.

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

6. In response to a query from the Court, under instructions from SI Rai Singh, learned State counsel informs that the challan has already been filed and charges are yet to be framed. Thus, the investigation regarding the petitioner is complete, and he is not required for custodial interrogation.

7. 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 August 21, 2023, for more than 01½ months.

8. 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.

9. Co-accused of the petitioner has already been granted interim anticipatory bail by this Court, as aforesaid.

10. The petitioner is stated to be a 41-year-old person and having a fixed abode, it is unlikely that he poses any flight risk and/or will flee from trial proceedings.

11. 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.

12. Accordingly, the petitioner is ordered to be released on bail, provided he is not required in any other case, upon furnishing bail bonds and surety bonds to the satisfaction of the learned trial Court where their case is being tried or the duty Magistrate or Illaqa Magistrate, as the case may be. One of the bail conditions the Court

below shall impose on the petitioner is the payment of Rs.1,00,000/- at the time of accepting the bail bonds, in addition to other usual conditions.

13. 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.

14. 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.

15. Pending applications, if any, shall also stand disposed of.

(ARUN MONGA)
JUDGE

October 18, 2023
mahavir

Whether speaking/reasoned: Yes/No

Whether reportable: Yes/No