

CRM-M-60070 of 2022

**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

CRM-M-60070 of 2022

Date of decision: 02.03.2023

Mangal Singh

.....Petitioner

Versus

State of Punjab

.....Respondent

CORAM: HON'BLE MR. JUSTICE NAMIT KUMAR

Present: - Mr. L.M. Gulati, Advocate,
for the petitioner.

Mr. Jashanpreet Singh, DAG, Punjab.

Mr. Sandeep Majithia, Advocate,
for the complainant.

NAMIT KUMAR, J.(ORAL)

This petition has been filed under Section 438 Cr.P.C. seeking anticipatory bail in case FIR No.137 dated 27.11.2022 under Sections 420, 120-B IPC, registered at Police Station Kathunangal, District Amritsar Rural.

FIR in the present case was registered on the statement of complainant-Tarwinder Singh, who submitted that petitioner and other co-accused Jatinder Singh have taken Rs.10,50,000/- from the complainant on the pretext of sending the complainant abroad i.e. Portugal. It was further submitted in the complaint that on 23.10.2020 again Rs1,00,000/- has been paid to the accused persons and then on 22.2.2021 accused persons gave passport and visa alongwith two

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tickets and the first ticket was for the month of April but same was found to be forged one. Thereafter complainant demanded back his amount but accused did not return the same. Further submits that present petitioner handed over two cheques to the complainant bearing no. 3637820 amounting to Rs.4,50,000/- and no. 367821 amounting to Rs.4,00,000/- respectively but the said cheques have been later on dishonoured.

Notice of motion in the present case was issued on 22.12.2022 for 16.01.2023. On 16.01.2023, learned counsel for the petitioner sought adjournment to get instructions from the petitioner as to whether he is ready to settle the dispute by returning the cheque amount of Rs.4 lac and Rs.4.5 lac or not and the case was adjourned for 24.01.2023. On 24.01.2023 the matter was referred to the Mediation and Conciliation Centre of this Court on the request of learned counsel for the parties. Report dated 28.02.2023 has been received from the Mediator stating therein that despite best efforts, the parties could not reach at any amicable settlement.

Learned counsel for the petitioner contends that petitioner is innocent and has been falsely implicated in the present case. He is not working as an agent for sending the people abroad. He further submits that the amount of Rs.10,50,000/- has been taken by co-accused Jatinder Singh. He further submits that the petitioner is not involved in any other case and he is ready and willing to join the investigation.

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Per contra, learned State counsel assisted by learned counsel for the complainant has opposed the prayer for grant of anticipatory bail to the petitioner. Learned State counsel on instructions from the investigating officer, who is present in Court, submits that petitioner is working as an agent. He further submits that the petitioner along with co-accused Jatinder Singh has committed fraud with the complainant and has taken a sum of Rs.10,50,000/- and thereafter two cheques amounting to Rs.4 lac and Rs.4.5 lac have been given by the petitioner to the complainant, which have also been dishonoured.

I have heard learned counsel for the parties and perused the record.

Perusal of the facts mentioned hereinabove would show that a sum of Rs.10,50,000/- has been taken by the petitioner along with co-accused Jatinder Singh from complainant-Tarwinder Singh on the pretext of sending him abroad i.e. Portugal and on a complaint submitted by the complainant, inquiry was held by the DSP, Special Crime, Economic Offences Wing and Cyber Crime Unit, Amritsar Rural, and during inquiry statements of both the parties were recorded and in the inquiry it has been held as under: -

“The applicant Tarvinder Singh has passed 10+2 in the year 2017. And he wanted to go abroad and the applicant was told by his known resident person about Jatinder Singh resident of Kot Khaira, Police Station of Tarsikka and Jitinder Singh's office was at Adda Khajala. As such the applicant alongwith his father Manjit Singh had gone to the office of Jatinder Singh where Mangal Singh

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resident of Nawan Pind was also present. Both of them advised complainant Tarvinder Singh to go to Portugal and demanded 11 lakh rupees from the applicant and applicant on 23-10-2020 from his Punjab National Bank Branch Jaitipur Account No. 0711000102262259 had transferred Rs. 1 lakh in the account of Jatinder Singh account number 20296774492. After about 06 months Jatinder Singh from his mobile no. 75049- 00062 had sent the visa of Portugal the applicant's mobile number 97812-15314. After this, on the asking of Jatinder Singh on 02-03-2021, the applicant transferred 45 thousand rupees to the account of Jatinder Singh. After some days, Jatinder Singh on the pretext of purchasing the tickets asked applicant Tarvinder Singh to arrange for more money, the complainant and his father met Tajinder Singh and Mangal Singh residents of Nawan Pind, who told them to meet Sanjay Sharma, Office Near B.S.F. Chowk, Jalandhar, where the complainant gave 4 lakh rupees to Jatinder Singh and the said three accused assured the complaint that soon he would be sent to Portugal. After taking the money, agent Mangal Singh called up applicant Tarvinder Singh on his mobile no. 97812-15314 from his mobile no. 75268- 93103, sent ticket of KLM Airways, demanded balance Rs. 5 laks and told him that we are to take you to Delhi Airport. That the complainant Tarvinder Singh alongwith his father in the presence of his relative Baljinder Singh resident of Mattewal handed over Rs.05 lakh to agent Jatinder Singh at his office at Village Khujala. During the inquiry, it has been found that when the complainant Tarvinder Singh got suspicious about VISA and ticket, then he got the VISA and ticket check, in checking they were found to be fake, then Jatinder Singh gave him a fresh ticket, which also found to be fake.

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Agents Jatinder Singh and Mangal Singh have neither sent the applicant to Portugal nor returned the money even after spending so much time. The applicant along with his father and important persons of the village have been going to the offices of Jatinder Singh and Mangal Singh at village Khujala many times to ask for their return. The applicant collected Rs.10,45,000/- through various sources from relatives and gave it to agents Jatinder Singh and Mangal Singh at Adda Khajala. Agent Mangal Singh with a view to return this money to Tarvinder Singh, handed over two cheques vide Cheque No. 367820 & 367821 of Rs. 4,50,000/- and Rs. 4,00,000/- respectively.”

There are specific allegations against the petitioner that on the pretext of sending the complainant abroad, he duped the complainant of huge amount. The allegations are specific/serious in nature. Custodial interrogation of the petitioner may provide information leading to discovery of material facts. Curtailing of his freedom is necessary in order to enable the investigation to proceed without hindrance and to protect witnesses. In order to return the money to the complainant, they issued two cheques, which were also dishonoured.

Reliance can be placed upon the Hon’ble Supreme Court dictum passed in ***Prem Shankar Prasad v. The State of Bihar and another, 2021(4) RCR (CrL) 598*** and ***Anil Kumar Singh v. High Court of Judicature at Patna through its Registrar General and another, (2020)19 Supreme Court Cases 364*** whereby the Hon’ble Apex Court had denied the concession of anticipatory bail in view of the gravity of offences and the conduct of the petitioner.

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As per law laid down by the Hon'ble Supreme Court in *State of Madhya Pradesh v. Pradeep Sharma (2014) 2 Supreme Court Cases 171*, power exercisable under Section 438 Cr.P.C. is somewhat extraordinary in character and it is to be exercised only in exceptional cases where it appears that the person may be falsely implicated or where there are reasonable grounds for holding that a person accused of an offence is not likely to otherwise misuse his/her liberty.

In view of the facts and circumstances of the case, I am of the considered view that petitioner cannot prima facie be said to have been falsely enroped in the crime and his custodial interrogation is necessary in the case and that petitioner is likely to abscond and misuse his liberty and does not deserve grant of anticipatory bail.

In view of the above, the petition is dismissed.

02.03.2023
R.S.

(NAMIT KUMAR)
JUDGE

Whether speaking/reasoned : Yes/No

Whether Reportable : Yes/No