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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

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CRM-M-240-2024
Date of decision : 29.01.2024

Avtar Singh Petitioner

versus

State of Punjab Respondent

CORAM : HON'BLE MR. JUSTICE PANKAJ JAIN

Present: Mr. Aayush Gupta, Advocate
for the petitioner.

Mr. Kunal Vinayak, AAG, Punjab.

Mr. Vikas Bali, Advocate
for the complainant.

PANKAJ JAIN, J. (Oral)

1. Present petition has been filed under Section 439 Cr.P.C. for grant of regular bail to the petitioner in case bearing FIR No.0194 dated 13.09.2023, registered for the offences punishable under Sections 420, 465, 467, 468, 471 and 120-B of IPC and Section 13 of Punjab Prevention of Human Smuggling Act, 2012 at Police Station Samrala, District Khanna.
2. As per the FIR, it has been alleged as under:-

“One complaint bearing No.62758-PGD dated 04.11.2022 has been received from Rajender Kumar son of Amarjit Singh resident of Dashmesh Nagar, Lalheri Road, Ward No. 6, Ludhiana has been received for the enquiry for the office of Hon'ble SSP Sahib, Khanna through post for the registration of the FIR, the same is as under:- To the Hon'ble SSP Sahib. Subject: Complaint against

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1)Avtar Singh (83607-14836), 2) Narender Singh @ Ninder (97103-38000), 3) Sidhu (98142-03748) partner in M/s Guru Nanak Training and Trade Centre, Kotkapura bypass Gorewala Road, Moga, 4) Satnam Singh resident of village Mador, Tehsil Bagga, District Nawanshaher, regarding the cheating with the complainant, after conspiring with each other, regarding sending the complainant abroad, thereby misappropriated the money and issuing forged Visa and also giving threats to the dire consequences. Sir, it is submitted that the complaint is as under: 1) That I, Rajender Kumar son of Amarjit Singh resident of Dashmesh Nagar, Lalheri Road, Ward No.6, District Ludhiana and does the private work. 2) That Satnam Singh is our relative and is resident of Portugal. On 15th December, 2021, the abovementioned Satnam Singh contacted me and said that I can make you settle in Portugal. I will after getting you the Visa of Portugal, will get you a job over there. He further said that from the said settlement you will get good earning. Further the said Satnam Singh said that he had good relations with the travel agents, who will take less money and will at earliest get you the Visa of Portugal. I got into the talks of abovementioned Satnam Singh, regarding getting the Visa for Portugal. 3) That the abovementioned Satnam Singh sent me to Avtar Singh, Narender Singh @ Ninder Singh and Sidhu, who are doing the work of travel agent at Moga in the name of Guru Nanak Training and Trade Centre, Kotkapura bypass Ghorewala Road, Moga. The abovementioned Satnam Singh told me that he will tell abovementioned persons to contact the

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complainant. Thereupon the abovementioned Avtar Singh, Narender Singh and Sidhu contacted me from Khanna and told me that they will get the Visa for Portugal at the earliest. The abovementioned persons demanded an amount of Rs.44,50,000/- from me for Visa to Portugal and they told that after getting the abovementioned amount, they will get the Visa. When these persons told me this thing, at that time Sohanjit Singh son of Harpreet Singh resident of Samrala, Mobile No. 94179-00622 was also present, who is my distant relative. The abovementioned Avtar Singh, Narender Singh and Sohanjit Singh told me that they will get me a Visa for Portugal and I may go to Portugal and I should settle there. The abovementioned took me into their talks and I believed upon them and consented for the Visa. 4) That the abovementioned persons Avtar Singh, Narender Singh @ Ninder Singh and Sidhu on their asking I gave original passport, original Aadhar Card, original PAN card, original certificates of 10th and 12th class to them on 20.12.2021. Therefore, accordingly all my originals came into their possession. 5) That the abovementioned Avtar Singh, Narender Singh @ Ninder Singh and Sidhu told me that I may get my medical done from Balaji Diagnostic Centre, Backside Hotel Kings, Lovely Studio, Bus Stand, Jalandhar. On their asking I got the medical done. The copy of the medical is attached herewith. After sometime, the abovementioned persons told that my medical has been approved and you will get the Visa at the earliest. 6) On 17.02.2022, I received a message from Mobile No. 83607-14836 from whatsapp No. 9988779539. In the said whatsapp

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message they sent copy of my Visa as well as Sohanjit Singh and said that your Visas have come. Therefore, you may send me the payment. Here it is important to mention that the copy of the Visa was not clear and we were not able to read the same. We sent the copy of the Visa to Satnam Singh and he said that the same is correct. I told Satnam Singh that neither our finger prints were taken in the Embassy nor we were called there. Upon the same, Satnam Singh said that your finger prints shall be taken at Portugal, because you have been issued the work permit. Upon the same we asked Avtar Singh and Narender Singh regarding the same, they said that because of work permit, your finger prints will be taken at Portugal only. Satnam Singh told that you may pay the money to Avtar Singh, Narender Singh and Sidhu as your Visa is correct. The abovementioned persons also started demanding the money. The copy of the Visa is attached herewith. Upon the asking of Avtar Singh, Narender Singh, Sidhu and Satnam Singh, through bank transactions an amount of Rs.7.00 Lakhs was sent in the account of Guru Nanak Training and Trade Centre and Rs.2.00 Lakhs were transferred by Sohanjit Singh from his account in the account of the firm. Accordingly on the demand of the abovementioned accused an amount of Rs.9.00 Lakhs were transferred (Rs. 4,50,000/- per person). Upon making the payment asked the abovementioned persons that when we will get the flats for Portugal, there upon these persons started delaying the matter and told us that at earliest we will get the tickets. But, on any occasion they did not give us the tickets. The copy of the bank statements are

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attached herewith. 8) That after passing of the good amount of time, upon our enquiries, we came to know that they have got issued forged Visas to us and as a matter of fact we have not been issued Visa for Portugal and therefore, the abovementioned persons have cheated us for an amount of Rs.9.00 Lakhs. We have come to know that, they have cheated us and by creating the forged documents they have sent us the Visas and our original documents are there in the custody of the abovementioned persons. 9) That I and Sohanjit Singh on various occasions went to the abovementioned persons at their office for getting out money back and the original documents, the abovementioned persons on repeated asking, got issued one cheque bearing No.063408 dated 28.08.2022 for an amount of Rs.9.00 Lakhs issued from the Branch of Punjab National Bank, G.T. Road, Moga from their firm's account. The said cheque was regarding the payment of me and Sohanjit Singh. On the asking of the accused persons, I deposited the said cheque into my account on 21.10.2022. Since the amount was not there in the account, the cheque was dishonoured. Copy of the memo is attached herewith. After the dishonouring of the cheque I contacted the accused persons and requested them to return my amount. Upon the same, they started threatening me and said that neither we will return the money nor we will return your original documents, whatever you want you can do. 10) That after the dishonouring of the cheque it is submitted that the abovementioned accused are threatening us and whenever we demanded the amount they gave threats of dire

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consequences to us. Further they said that they will not do any work nor they return our amount and neither they will return our original documents. Further they said that they have relations with higher officers and accordingly you cannot do anything. The abovementioned persons had the bad intention from the very first day and accordingly, therefore, in conspiracy with each other, they made a false promise of sending us abroad and they took huge amount from us by showing the forged visas. The abovementioned persons have done cheating with me and Sohanjit. 11) The abovementioned persons in conspiracy with each other, cheat the people by giving false promise that they will be sending them abroad and for that purpose they issue them forged visa and accordingly they take huge amount from them. The abovementioned persons kept us under this false promise only and therefore, cheated us and therefore, they have neither returned our amount nor they have sent us to Portugal and also they have not returned our original documents. We with great difficulty got collected such a huge amount by taking loans as the abovementioned persons promised us and therefore, we have paid so much huge amount to them, but they have taken huge amount from us by giving false promise of sending abroad. They have also misappropriated our amount. It is, therefore, requested that action may be taken against the abovementioned accused and the complaint may be investigated for misappropriating the money and for issuing forged visas. Justice may be delivered to us.”

3. Petitioner in order to show his bonafide has paid an amount of Rs.4.50 lakhs in total including 4 lakhs paid today by way of two

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demand drafts bearing No.006588 and 001939 dated 24.01.2024 and 25.01.2024 respectively. Copy of which has been produced and the same is taken on record as mark 'X'. By paying the aforesaid amount, the petitioner claims to have paid his share out of Rs.9 lakhs and submits that other part of Rs.4.5 lakhs has to be paid by his parter/co-accused Narender Singh @ Ninder.

4. Counsel representing the complainant submits that the complainant has no reason to deny the aforesaid amount, but his passport etc. and other documents are still awaited. Be that as it may, keeping in view the incarceration suffered by the petitioner and the fact that the petitioner in order to show his bonafide, has already paid an amount of his part, the present petition is allowed. Petitioner is ordered to be released on regular bail on his furnishing bail/surety bonds to the satisfaction of the Ld. Trial Court/Duty Magistrate, concerned.

5. Needless to say nothing recorded herein shall be construed to be an expression of an opinion on the merits of the case.

(PANKAJ JAIN)
JUDGE

29.01.2024
Dinesh

Whether speaking/reasoned :	Yes
Whether Reportable :	No