

244 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

Neutral Citation No. 2024:PHHC:019148
CRM-M-4289-2024 (O&M)
Date of Decision: February 12, 2024

Manoj Kumar Phutela ...Petitioner

Versus

State of Haryana ...Respondent

CORAM: HON'BLE MR. JUSTICE DEEPAK GUPTA

Present:- Mr. Aditya Sanghi, Advocate for the petitioner.

Mr. Sumit Jain, Addl. A.G., Haryana.

Mr. Amit Singla, Advocate for the complainant.

DEEPAK GUPTA, J.(Oral)

Memo of appearance has been filed on behalf of the complainant.

2. Status report by way of affidavit of of Shri Jagat Singh, Deputy Superintendent of Police, Sirsa, along with Annexure R-1 has been filed on behalf of respondent-State.

3. By way of present petition filed under Section 439 Cr.P.C., petitioner prays for grant of regular bail in a case arising out of FIR No.364, dated 17.04.2023, under Sections 420 and 406 of IPC, registered at Police Station Civil Lines, Sirsa, District Sirsa.

4. Learned counsel for the petitioner submits that earlier, petitioner had applied for anticipatory bail by filing CRM-M-47593-2023, wherein this Court had passed the following order on 21.09.2023:-

“Through this petition, the petitioner seeks anticipatory bail in case bearing FIR No.364 dated 17.04.2023, registered at Police Station Civil Line, Sirsa, District Sirsa, under Section 420 IPC. Learned counsel for the petitioner contends that the petitioner, who is a registered travel agent, is providing tour and travel services under the valid registration certificate dated 02.07.2021

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(Annexure P-4), and that as per the allegations, the complainant paid an amount of Rs.5 lakh to the petitioner to send Vicky(son of the complainant) to Armenia and from there to Australia on work visa, but he had not been sent to Australia on the said visa.

Learned counsel for the petitioner draws the attention of this Court towards the affidavit (Annexure P-5) to indicate that Vicky had decided to visit Armenia on work visa and the said affidavit was also signed by the complainant as a witness. It is further submitted that visa was issued in favour of the son of the complainant on 06.02.2023 and even the social security card (Annexure P-8) was also issued in his favour by the Government of Armenia, on 10.03.2023 and that there was no occasion for the petitioner to send the son of the complainant to Australia. Even otherwise, to show his bona fide, the petitioner is ready to deposit a sum of Rs.2,50,000/- by way of demand draft, in favour of the Registrar General of this Court.

Notice of motion.

On the asking of this Court, Mr. Rahul Dev Singh, Addl. A. G. Haryana, accepts notice on behalf of the respondent-State, and seeks time to file the status report.

Adjourned to 04.12.2023.

Meanwhile, the petitioner is directed to join investigation and if he is sought to be arrested, he shall be released on interim bail to the satisfaction of Investigating Officer/Arresting Officer subject to the conditions as envisaged in Section 438 (2) Cr.P.C., and further subject to the deposit of Rs.2,50,000/- by way of demand draft in the name of the Registrar General of this Court within a period of ten days.

However, anticipatory bail, granted while exercising the judicial discretion, should not operate as an inroad into the statutory investigational power of the police.

On deposit of the said demand draft by the petitioner, Registry is directed to deposit the same in a fixed deposit with the State Bank of India, High Court, Branch, fetching the maximum rate of interest.”

5. Learned counsel submits that petitioner could not arrange the amount of ₹2,50,000/- at that time and because of that reason, the petition for anticipatory bail was dismissed by this Court vide order dated 04.12.2023 {Annexure P-9(a)}. Learned counsel submits that now the petitioner has deposited an amount of ₹2,50,000/- by way of a demand draft in favour of the Registrar General of this Court to show his bonafide. Besides, the case is triable by the Magistrate and that the petitioner is in custody for the last more than one month and the trial may take time to conclude, so he be allowed bail.

6. Learned State counsel opposes the bail petition.

7. Learned counsel for the complainant has made a request, so as to release the amount of ₹2,50,000/- as deposited by the petitioner.

8. Learned counsel for the petitioner has no objection to the aforesaid prayer, but submits that the same be released subject to some security, because in case the petitioner is ultimately acquitted, the complainant may not return the amount.

9. The said request is allowed. The Registry is directed to remit the amount of ₹2,50,000/- in the account of the Trial Court concerned, so that on furnishing security before the Trial Court concerned, the amount can be paid to the complainant as deposited by the petitioner in his favour. The case is triable by the Magistrate. The petitioner is in custody for the last 01 month and 14 days, as per the custody certificate, though involved in one more case. The petitioner has now deposited the amount of ₹2,50,000/- as noticed above.

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10. Having regard to the aforesaid facts and circumstances, but without commenting anything on the merits of the case, petitioner is admitted to bail. He is ordered to be released on regular bail on his furnishing requisite bail bonds and surety bonds of the satisfaction of learned Trial Court/Duty Magistrate concerned, on usual terms and conditions.

Allowed.

February 12, 2024

sarita

(DEEPAK GUPTA)
JUDGE

Whether reasoned/speaking: Yes/No

Whether reportable: Yes/No