130 **IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH**

CRM M-5431-2024 (O&M)
Date of Decision: 23.05.2024

Zarina Bano Fakrudin Saiyad .... Petitioner

Versus

State of Haryana ....Respondent

CORAM: HON'BLE MR.JUSTICE MAHABIR SINGH SINDHU

Present: Mr. Ishnoor Singh, Advocate for
Mr. Vikram Singh, Advocate,
for the petitioner.

Mr. Kiran Pal Singh, AAG, Haryana.

MAHABIR SINGH SINDHU. J.

Present petition has been filed under Section 482 of the Code of Criminal Procedure (for short "Cr.P.C") for quashing of the impugned order dated 11.01.2024 (P-8), whereby an application of petitioner for release of her passport in FIR No.767 dated 18.08.2022 under Sections 120-B, 406, 420, 467, 468 and 471 of the Indian Penal Code, 1860 (for short, 'IPC') and Section 24 of the Emigration Act, 1983, registered at Police Station Sadar Karnal, District Karnal, was declined.

2. Learned counsel contends that matter has been compromised for an amount of Rs.24 lakh to be paid by the petitioner and out of that, Rs.6,50,000/- has already been paid to the complainant; whereas remaining amount of Rs.17,50,000/- is yet to be paid. Also contends that petitioner is a partner in an Immigration Firm situated in Dubai and for arranging the balance amount, she wants to visit Dubai; hence, her passport be released for a period of 03 months.

3. *Per contra*, learned State counsel opposed the prayer while submitting that allegations against all the accused, including petitioner, are very

serious in nature and the compromise, if any, by the petitioner with complainant at their level shall not absolve her from criminal liability.

Also submits that after various efforts, 3rd accused i.e. Arif Umrao Sheikh has been arrested from Mumbai on 01.05.2024 and in case petitioner is allowed to go Dubai, she will never come back and trial shall be derailed.

4. Heard learned counsel for the parties and perused the paper-book.

5. Above FIR was registered against (i) Mohd. Safiq Khan, (ii) Zarina Khan and (iii) Arif Sheikh on the basis of complaint made by one Krishan Kumar and which reads as under:-

> *"To, S.P. Karnal, Subject- Application for taking legal action against accused (1) Mohd. Safiq Khan (2) Zarina Khan wife of Mohd. Safig resident of Mumbai (3) Arif Sheikh resident of Ahemdabad and other, for grabbing and cheating of Rs.40,80,000/- by preparing and using fake documents. We Krishan Kumar son of Sh. Balbir Singh and Nipun son of Shishpal residents of village Kheri Naru, Tehsil and District Karnal, we are peace loving citizen and have full faith in law. That the accused No. 3 used to meet the complainant in District Court Karnal due to which a faith of complainant was built up over the accused. The accused no. 3 told that he is doing the work to send the peoples aboard. When this fact came in the knowledge of Ashish, Rahul, Neeraj and other, then they showed their willingness to go aboard, on this accused No. 3 told that I and Safig Khan and Jarina Khan will send these three to aboard and also arranged good job for them there. On this the complainant asked for the expenses for the same, then accused told that Rs 16 Lakhs will be spent for one person. On this when we told that our four persons have to go aboard and asked the reasonable expenses. On this the accused told that total Rs. 50 Lakhs will be spent i.e. Rs 12,50,000/- for each person. On this the complainant agreed for the same. The complainant were in touch and taking with the accused through phone and in the month of November, 2021, the accused alongwith some other persons came to Karnal and stayed at Confert-In Hotel, Namasty Chowk Karnal and also called us in the hotel where we both and other two persons went to the hotel, where the aforesaid accused persons have taken documents (Passport, Aadhar Card, PAN Card, Bank Statement photos etc.) of all aforesaid Rahul, Ashish Neeraj etc. and told that they will start the process of their VISA and asked that they will take money after VISA and demanded Rs. 10 Lakhs for File Charges. Thereafter in the month of December, 2021, the aforesaid accused came to our office at Alfa City Karnal and taken away Rs. 10,00,000/- cash from us and assured that VISA will be issued soon and told that you will have to visit to Delhi for the finger prints and gave assurance that we have number of our own persons in U.K. and also we have arrange the work there for us. That we gave the original passport to them. Thereafter Rahul, Ashish, Neeraj and others have been called there three-four times to Delhi for the finger prints and also got accommodated them in hotel and accused persons showed us Rahul, Ashish and Neeraj passport and after showing the same said VISA of the above mentioned persons have been prepared and then they asked us to make the payment. That as such the complainant No.2 through google pay and bank paid Rs, 12,32,500/- to the accused No. and accused No.3 and complainant No.2 from his Axis Bank paid Rs. 5,00,000/- in bank account of the accused No.1 and 3 on different- different dates as per the demands of the accused. That account statement is attached. That the accused told that they will get the job at aborad and de-*

manded the remaining amount. Then in the month of January 2022, the complainant paid Rs. 13,80,000/- cash to the accused at Karnal after taking the same from the relatives and known. That on 01.03.2022, the accused again visited to Karnal and demanded remaining amount and then the complainant paid Rs. 9,67,500/- cash to the accused No.3 before Narender, Sumit, Kajal, Jitender at Alfa City, Karnal and the complainant demanded the passport, then the accused told to wait and assured to give after few days. After that on repeated demands, the accused gave the Passport of Ashish and Rahul to the complainant. After getting the passport, the complainant checked the VISA of Ashish and Rahul and then the complainant came to know that the accused persons have marked the stamp of forged VISA on the passport for cheating. In this way the accused persons have cheated the complainant, Rahul, Ashish, Neeraj and others fraudulently and grabbed the money in the name of sending to aboard and also got forged stamped of VISA over their passport and cheated. The complainants come to know that the accused tried to send Atul to aboard through Forged VISA but Atul has been deported from Turkey. The accused persons in collusion with each other by hatching a criminal conspiracy and prepared a forged and fabricated VISA and grabbed our Rs. 40,80,000/- and cheated us."

6. In para 4 of the affidavit dated 12.02.2024, filed by Deputy Superintendent of Police, Headquarters, Karnal, it is specifically alleged that petitioner in criminal conspiracy with other co-accused have formed a gang and running an organized racket, dishonestly promising visas to innocent persons.

7. After investigation, report under Section 173 Cr.P.C has already been presented against Mohd. Safiq Khan as well as petitioner; whereas third accused i.e. Arif Sheikh was evading the process of law and after various efforts, he has been arrested from Mumbai on 01.05.2024.

8. Learned State counsel has vehemently opposed the prayer while submitting that in case petitioner is allowed to go to Dubai, she will not come back to India and trial shall be derailed.

9. Also noteworthy, there is no proof or material available on record that petitioner is having any amount in her bank account in Dubai and moreover, this cannot be a ground to allow the petitioner to leave the country, when learned State counsel has expressed strong apprehension that petitioner will not come back for joining the trial Court proceedings.

10. Apart that, *prima facie,* it appears that petitioner has cheated the complainant and this fact is quite evident from para 3 of the compromise/affidavit dated 18.10.2023 (P-6) itself, which reads as under:-

> *"3. That now in the above mentioned case the respectable persons have got our comprise (compromise sic) executed. According to the compromise Jarina Bano and Mohammad Safiq will give us full and final payment of Rs. 24 lakhs and all the gold one pair of earrings, two chains, one ring, one bracelet which we have on superdari which would be given to Jarina Bano and Mohammad Safiq when the outstanding amount will be given to us by Jarina Bano and Mohammad Safiq and the out of the above 24 lakhs 6.5 lakhs will be given at the time of bail of Safiq, when the Hon'ble High (Court sic) will direct the deponent to get his statement recorded for the quashing of the case, on that day the deponent will get the statement recorded in favour of Jarina Bano and Mohammad Safiq. On that day Jarina Bano and Mohammad Safiq will give the remaining amount of Rs. 17.50 lakhs in cash. We have not compromised the matter with the other accused persons. The above compromise is with Jarina Bano and Mohammad Safiq."*

11. In view of the above, no ground is made out to accept the prayer of petitioner to leave the country, at this stage.

12. Consequently, there is no option, except to dismiss the petition.

13. Ordered accordingly.

14. Pending criminal misc. application(s), if any, shall also stand disposed off.

23.05.2024 **(MAHABIR SINGH SINDHU)**
SN/v **JUDGE**

Whether speaking/reasoned : Yes/No
Whether Reportable: Yes/No