

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

Date of Decision : 02-05-2024

.....Petitioner

Versus

.....Respondent

CORAM: HON'BLE MR. JUSTICE PANKAJ JAIN

Present:- Mr. Amandeep Singh Sidhu, Advocate
for the petitioner.

Mr. Mohit Kapoor, Sr. DAG Punjab.

PANKAJ JAIN, J. (Oral)

1. Prayer is for grant of regular bail in FIR No.165 dated 17.07.2023 registered for offences punishable under Sections 420, 120-B of IPC and Section 24 of the Immigration Act, at Police Station Jamalpur, District Police Commissionerate, Ludhiana.
2. As per the allegations levelled in the FIR, it has been alleged as under:-

“At present an application Number U.I.D. 2372975 Dated 17.06.2022 from Jagjit Singh son of Shingara Singh R/o House Number 115, Street Number 03, 33 Feet Road, Mundian Kalan, Guru Nanak Nagar Ludhiana Mobile Number 70731-901000 against Harpal Kaur wife of Nihal Singh, Manider Singh son of Nihal Singh son of not known residents of House Number 115, street number 1, Mohalla Partap Colony, 33 feet Road, Mundian Kalan Ludhiana for registration of case under section 420,120-B

I.P.C. and 24 Immigration Act was received in Police Station from the office of Respectable Commissioner of Police, Ludhiana. The contents of which is as under: "To, Respectable Commissioner of Police, Ludhiana, Sub: Application against Harpal Kaur (Mobile Number 9464904080) wife of Nihal Singh and Nihal Singh (Mobile No.99145-21118) and Maninder Singh son of Nihal Singh Residents of House Number 151, Street Number 1, Partap Colony, 33 Feet Road, Mundian Kalan, Jamalpur, Ludhiana 141015 for commission of fleecing of Rs. 3,00,000/- in words (Rupees Three Lacs) in the name of sending my son Palwinderjit Singh out/abroad and for giving death threats. Sir, it is requested that I Jagjit Singh am performing my service as Naib Subedar, I.T.B.P. at Leh Ladakh and at present am living at House Number 115, Street Number 33, Thirty- three feet Road, Mundian Kalan, Ludhiana. That Harpal Kaur, was teaching at Mundian Kalan, Ludhiana in a School and her husband Nihal Singh was the Head of Gurudwara at Mundian Kalan Gurudwara, so we were having acquaintance with them and they often used to meet us frequently and say that we are doing work of sending abroad. That they discussed with me regarding sending my son Palwinderjit Singh to Canada against Rs. 18,00,000/- as well as they also said that if we could not send him abroad then we shall return your due amount along with interest. That I gave them sum of Rs. 3,00,000/ out of which sum of Rs. 50,000/- in cash at their home to their son Maninder Singh after counting it and balance cheque of an amount of Rs. 2,00,000/- and a cheque 50,000/- drawn on State Bank of India, Branch Mundian Kalan, Ludhiana was given to them, total of which is worked out to the tune of Rs. 3,00,000/- which I have since been given to them. That above mentioned amount I have saved with my hard work earnings and I had kept this amount for the better future of my son, that they committed fleecing with me by decoying me to send him abroad. That during that period of time they didn't allow my son to pursue his studies and nor even allow him to do any work because they used to say to my son that we

shall get your Visa within 2 months but due to not getting Visa my such started remaining tensed. That thereafter they started making evasiveness to sending my abroad and despite asking them on repeatedly they did not show us any way and later on they admitted to return entire amount. I have come to know that they do not even possess any Agent License That when we went to their house to take money then her son Maninder Singh chased us with swords and started hurling vituperation in the street. As a result of which my son has since been scared a lot. We have having danger to our life and liberty from them. It is requested to you that appropriate legal strict action may be initiated against them and my amount may be returned to me. I shall be grateful to you a lot please.

Yours faithfully, Sd/- Jagjit Singh, Jagjit Singh as Naib Subedar, R/o House No. 115, Street Number 3, Thirty Three Fect Road, Mundian Kalan, Ludhiana, Mob: 8725894151, 9888628294, 7073190100. That inquiry of above- mentioned application was conducted by Additional Deputy Commissioner of Police Headquarter Ludhiana sent the report to Respectable Commissioner of Police. He mentioned in his report that inquiry of the above-mentioned application was conducted by A.H.T. Unit Ludhiana sent the report to Assistant Commissioner of Police Headquarter Ludhiana. He has mentioned in his report that the application and record duly attached with the application, statements and upon examination of inquiry report it transpired that I am posted as Naib Subedar in I.T.B.P. My son Palwinder Singh wanted to go abroad. My wife Balwinder Kaur used to go to Gurudwara, so she acquainted with Harpal Kaur wife of Nihal Singh, she said to my wife that we used to do work of sending persons abroad. If any of your relative or your kid has to go abroad then you may tell us. My wife discussed with Harpal Kaur regarding sending her son Palwinderjit Singh to abroad. In the month of August 2019 Agent Harpal Kaur came to our house with whom my wife discussed regarding sending her son abroad. Harpal Kaur said that I shall get work Visa of Canada of your son.

you have to incur total expenses of Rs. 18,00,000/-. You have to pay sum of Rs. 3,50,000/- in advance. Rest of the amount shall be received after grant of Visa. To whom my wife said that I shall discuss with my husband and shall tell. In this regard my wife discussed with me then we got agree with Harpal Kaur to get Visa of our kid. In the month of December 2019 Agent Harpal Kaur came to our house to whom my wife gave original Passport of Palwinderjit Singh, I.D. Proofs and photocopies of Education Certificates and an amount of Rs. 50,000/- in cash. Harpal did not prove any receipt of receiving documents and money. Then after some days Travel Agent Harpal Kaur demanded sum of Rs. 50,000/- to whom my wife gave a cheque of Rs. 50,000/- of my Bank Account Number 10765348919 maintained with State Bank of India branch Mundian Kalan. That Harpal Kaur get it encashed in joint account with Nihal Singh maintained with Punjab National Bank in account Number 7568000100014134. Then Agent Harpal Kaur demanded balance of amount. To whom in the month of January 2020 my wife gave a cheque of Rs. 2 Lac from my above-mentioned Bank Account. Who got this cheque encashed through her above-mentioned Bank Account. I had given both these cheques to my wife by signing it, at the time of receiving this amount travel Agent Harpal Kaur made us to believe that process for getting Visa for your son has been started. That work Visa of your son shall be granted soon. Thereafter we kept on enquiring from Harpal Kaur regarding work Visa of our son, first of all she kept on making evasiveness to us that regarding getting Visa soon. Then in the month of March 2020 she started saying to us that there is epidemic Canadian Embassy has been closed. After Corona ailment shall over Visa of your son shall be granted. After ending of Corona ailment, in the month of August September 2020 we asked Harpal Kaur regarding Visa of our son then she said that she will get the visa issued in the month of November-December 2020. Thus, she kept on making evasiveness to us for long duration. She did not get work Visa of our son then we demanded

documents of our son and amount. Who despite putting pressure by us on repeatedly returned Original Passport and rest of the documents and promised to return money soon. But she didn't return our amount. When we put pressure upon her repeatedly then Agent Harpal Kaur gave us a cheque of Rs. 3 Lac to us on dated 15.12.2021 of Bank Account of her husband Nihal Singh. That when we presented it in our Bank then same got bounced. In this regard we had a word with Agent Harpal Kaur, then she again kept on making evasiveness to us for returning soon. Then when we put pressure upon her to return our amount then she gave an affidavit in writing and entered into an agreement to return money in instalments. But she did not return amount as per agreement even. That I hereby produce photocopies of the Agreements and given cheques. Then Agent Harpal Kaur gave us a cheque amounting to Rs. 50 thousand on dated 12.05.2022 from her account of Harpal Kaur's Bank Account. When we presented the cheque in our Bank then it got bounced due to insufficient funds. That Travel Agent Harpal Kaur in collusion and connivance with her son Maninder Singh by decoying to send my son Palwinderjit Singh on work Visa to abroad in Canada have committed fraud of Rs. 3 Lac." In order to join second Party Harpal Kaur wife of Nihal Singh into investigation proceedings she was informed repeatedly in writing and through mobile phone. Who also sought time in writing. But did not join investigation proceedings. Which clearly goes to show that she did not want to represent her version. He has mentioned in his inquiry report that, "From the above mentioned facts that have come to fore it transpired that son of applicant Jagjit Singh namely Palwinderjit Singh was decoyed by opposite Party Harpal Kaur wife of Nihal Singh and Nihal Singh by sending him abroad at Canada on work Visa received sum of Rs. 3,00,000/- through Cheque number 10765348919 State Bank of India Branch Mundian Kalan Ludhiana was get encashed by opposite Party in her Bank Account Number 7568000100014134 Punjab National Bank. That Bank Statement is annexed for

examination. But despite receipt of amount didn't send abroad. Thereafter an agreement dated 11.01.2022 entered into between both the parties it has been mentioned regarding receiving amount in the for sending son of the applicant Palwinderjit Singh abroad on work permit and not returning money and for returning the amount Harpal Kaur, Nihal Singh gave Band Cheques, but even then within settled period money was not return, copy of the agreement is attached for examination. Whereby opposite Party Harpal Kaur and Nihal Singh in connivance with each other by decoying the son of the applicant to send abroad received an amount of Rs 3 Lac commission of cheating has come to fore. On the basis of which a case is to be registered under section 120, 120-B of I.P.C. and 24 of Immigration act against opposite Party Harpal Kaur wife of Nihal Singh, Maninder Singh son of Nihal Singh and Nihal Singh son of not known residents of house Number 115, Street number 1, Mohalla Partap Colony Ludhiana and investigation is to be conducted. I agree with the report of Assistant Commissioner of Police, Headquarter Ludhiana. If so approved then it is recommended to register a case under section 120, 120-B of I.P.C. and 24 of Immigration act against opposite Party Harpal Kaur wife of Nihal Singh, Maninder Singh son of Nihal Singh and Nihal Singh son of not known residents of house Number 115, Street number 1, Mohalla Partap Colony at Police Station Jamalpur Ludhiana." Whereby respectable Commissioner of Police Ludhiana ordered Station House Officer Police Station Jamalpur to register a case. Whereby above mentioned case was registered against under section 120, 120-B of I.P.C. and 24 of Immigration act against opposite Party Harpal Kaur wife of Nihal Singh, Maninder Singh son of Nihal Singh and Nihal Singh son of not known residents of house Number 115, Street number 1, Mohalla Partap Colony."

3. Counsel for the petitioner submits that even if the allegations are taken on the facevalue, it is being claimed that the petitioner was paid an amount of Rs.3,00,000/- out of which almost half of the amount is returned. Further submits that petitioner is behind bars for more than 8 months. Challan stands presented on 12.10.2023 and till now charges have not been framed. Counsel for the petitioner further submits that there are 14 cited witnesses and the trial is not likely to conclude in the near future.

4. Learned State counsel does not dispute the abovesaid factual assertions.

5. Keeping in view the period of incarceration suffered by the petitioner, this Court does not deem it fit to allow the custody of the petitioner as a punitive measure. Thus the present petition is allowed. The petitioner is ordered to be released on bail on his furnishing bail/surety bonds to the satisfaction of the Ld. Trial Court/Duty Magistrate, concerned.

6. Needless to say that anything observed herein shall not be construed to be an opinion on the merits of the case.

02-05-2024

spn

(PANKAJ JAIN)
JUDGE

Whether speaking/reasoned Yes

Whether Reportable No