IN THE HIGH COURT OF PUNJAB AND HARYANA

AT CHANDIGARH

CRM-M-21433-2024 (O&M)
Reserved on: 09.05.2024
Pronounced on: 22.05.2024

Vikram Dutt

... Petitioner(s)

Versus

State of Haryana

...Respondent (s)

CORAM: HON'BLE MR. JUSTICE ANOOP CHITKARA

Present:- Mr. P.S. Sullar, Advocate
for the petitioner(s).

Mr. Rajat Gautam, Addl.A.G., Haryana.

Mr. S.K. Verma, Advocate
for the complainant.

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ANOOP CHITKARA, J.

FIR No.	Dated	Police Station	Sections
11	18.1.2024	Alewa, District Jind	10 & 24 Emigration Act, 1983 and Section 370 and 506 IPC

1. Apprehending arrest in the FIR captioned above, the petitioner-accused had come up before this Court seeking anticipatory bail under Section 438 CrPC.

2. In paragraph 27 of the bail petition, the accused declares that he has no criminal antecedents.

3. Petitioner seeks bail on the ground that the petitioner is not at all connected with the alleged visa scam and all the allegations are false and incorrect. He further seeks bail on the ground of non-availability of evidence.

4. State's counsel opposes the bail and submits whereabouts of the boy are unavailable and despite various efforts, they could not know as to what happened to him. He further submits that the petitioner and co-accused are extorting money from the people by assuring them to send abroad and thus, the petitioner is not entitled to bail.

5. Case of the prosecution is being extracted from status report dated 7.5.2024 filed by the State by way of affidavit of concerned DySP, which reads as under:-

> "2. That from the perusal of case file transpires that the present case FIR No. 11 dated 18.01.2024 u/s 370,506 IPC and 10, 24 Emigration Act was registered at Police Station Alewa, District Jind, on the complaint of Ishwar son of Sh. Satyawan, resident of Dahola, District Jind with the allegations that his younger brother Mohit wanted to go to Germany to earn his livelihood and he was a good friend of Ankit, nephew of accused No.1-Jitender. Ankit had told his nephew that his uncle Jitender runs the business of sending the people abroad on work Visa. In the beginning of year 2023, Ankit went to Germany and applicant and his nephew developed faith in accused Jitender. In May 2023, Ankit introduced them to accused No.1 and on 03.05.2023, he alongwith his brother Mohit and one relative Shish Pal went to the house of accused Jitender and asked him to send Mohit to Germany on which Jitender told them that he as well as accused No.2-Vikram are partners and they run their business jointly at Chandigarh and help people in procuring work Visas for Germany. Accused Jitender demanded Rs.15 lakhs from him out of which a sum of Rs. 2 lakhs was to be paid in advance and remaining amount was to be paid after Mohit reaches Germany and he assured to arrange work Visa for him. On 25.05.2023, he alongwith Mohit and Shish Pal went to the house of accused No.1 and gave Rs. 2 lakhs to him towards advance alongwith passport of Mohit and other documents. On 16.06.2023, accused Jitender told them that work Visa has been arranged and he demanded Rs. 3 lakhs which were paid to him at his house. Thereafter, accused told them that one flight for Mohit has been booked for going to Germany on 19.06.2023 and they were called to Delhi where Mohit boarded a plane, but he sent his brother to Dubai instead of Germany where he was kept in confinement for about one month and they were informed by Mohit in this regard. When they contacted accused Jitender, he assured that his brother will be sent to Germany and demanded Rs. 5 lakhs which were transferred in his account through RTGS on 21.07.2023 and accused made him speak to his brother on telephone. Mohit told him that he has been taken to one country namely Baku and they have assured to send him to Germany, but his brother did not reach Germany for the next two months as well. Thereafter, accused demanded Rs.1 lakh which was transferred in his account on 15.09.2023. However, his brother was kept in some other country and was not sent to Germany and when they again contacted him, accused Jitender took him to accused No.2 Vikram on 22.09.2023 where they asked him to pay Rs.7 lakhs and in case, he failed to pay the same, they will get his brother killed before he reaches Germany. On 27.09.2023, they paid Rs. 4 lakhs in cash in their office at Chandigarh and Rs. 2 lakhs were transferred in the account of accused No.2 of SAP Trading on 28.09.2023. When they contacted his brother, he told that he has been kept confined in some unknown country. When he again contacted the accused, they again demanded Rs. 1 lakh and thereafter, he deposited a sum of Rs. 1 lakh in the bank account of one Aman Kumar on 07.10.2023. On 26.12.2023, he spoke to his brother who told that the accused are persons of criminal background and they can get him murdered and he apprehends danger to his life and thereafter, his phone got switched off and he has not been able to contact his brother. Now they are not telling him the whereabouts of his brother and he sought action against the accused. (Annexure P-1).
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> 3. That investigation of this case was taken up by Sub Inspector Rajesh Kumar, Station House Officer, Police Station Alewa. During the course of investigation of the case on 19.01.2024, Mr. Jatin, Branch Manager, Axis Bank, Khanda was joined in the investigation of the case and his statement u/s 161 Cr.P.C. was recorded. A copy of account statement, total three pages, of bank account No. 920020058491413, of Shaikh Sazia Akbarali, Valsad, Gujarat produced by him was taken in police possession through separate recovery memo. Further on the same

day, Mr. Dilawar Singh, Branch Manager, HDFC Bank, Alewa was joined in the investigation of the case and his statement u/s 161 Cr.P.C. was recorded. A copy of account statement, total one pages, of bank account No. 50100501614211 produced by him was taken in police possession through separate recovery memo.

4. That on 30.01.2024, correspondence for seeking call details records (CDR) of mobile Nos. 79884-57576, 83604-13228, 93061-42006 and 83682-78118 was made. Further on 01.02.2024, necessary correspondence with AFFRO, Indra Gandhi International Airport, New Delhi was made for seeking detail of air journey(s) of Mohit son of Satyawan, resident of Dahola. It is further submitted that on 06.03.2024, the complainant was joined in the investigation of the case and his statement u/s 161 Cr.P.C. was recorded. A copy of passport of Mohit, photocopy of HDFC bank account, total 8 pages, of the complainant produced by him was taken in police possession through separate recovery memo. The perusal of account statement transpires that from the bank account of complainant on 28.09.2023, transaction of Rs.2,00,000/- in bank account No. 920020058491413 of Axis Bank, Assandh and one transaction of Rs. 1,00,000/- in bank account No. 10109434590 of Axis Bank, Uchana has been made.

5. That on 08.03.2024, notice u/s 41-A of Cr.P.C. was Forved upon the accused Jitender son of Ranbir, resident of Naru Kheri which was received by his wife namely Smt. Usha, as it was stated that the accused Jitender had gone to America. On 13.03.2024, Mr. Harmanjit Singh, Branch Manager, IDFC Bank, Sec.- 8C, Chandigarh was joined in the investigation of the case and his statement u/s 161 Cr.P.C. was recorded. A copy of KYC of account holder and account statement, total nine pages, of bank account No. 10109434590 of Arun Kumar, Pinjore, alongwith certificate u/s 65-B of Indian Evidence Act produced by him was taken in police possession through separate recovery memo. The perusal of account statement transpire that there is no money transaction in this account after 07.10.2023. Thereafter, on the same day i.e. on 13.03.2024, the other people acquainted with the case were joined in the investigation and enquiry was made from them.

6. That on 16.03.2024, in compliance of directions issued by the Additional Director General of Police, Hisar Range, Hisar issued vide memo. No. 8092/Reader dated 19.02.2024 scrutiny of the investigation of the case was done by the Deputy Superintendent of Police, Jind (Uchana) and after scrutiny, guidelines were issued for conducting further investigation of the case. Further on 21.03.2024, Mr. Surender Kumar, Manager (Operation), Axis Bank, Uchana was joined in the investigation of the case and his statement u/s 161 Cr.P.C. was recorded and information pertaining to depositing of Rs. 1,00,000/- through ATM on 07.10.2023 at 12.53 in bank account No. 921010032380755 of Jaspreet Kaur c/o Vikram Dutt, Lohgarh (Pinjore) produced by him was taken in police possession through separate recovery memo.

7. That on 21.03.2024, vide Superintendent of Police, Jind No. 19977-83 dated 21.03.2024 further investigation of the case was transferred to Incharge, CIA Jind.

8. That during the course of investigation of the case call detail records (CDR) of the mobile phones of the petitioner-accused and complainant were procured and analyzed in scientific manner. The perusal of call detail records of mobile No.9812710413 and 9306142006 of complainant and mobile No. 83604-13228 of petitioner -accused Vikram Dutt reveals that they were actively in contact with each other over mobile and there is about 140 time telephonic conversation among them. Similarly the complainant is also having 391 times telephonic conversation with co-accused Jitender at his mobile No. 7988457576 and 10 times at mobile No. 9812710413."

6. An analysis of the abovesaid arguments as well as the reply filed by the State

would lead to the outcome that *prima facie,* a sum of Rs.9 lac was paid through bank transaction and remaining Rs.9 lac was paid in cash and overall Rs.18 lac was paid. Police also found evidence that instead of sending the boy (Mohit) to Germany, they sent him to Dubai and other countries and his whereabouts are not known. There are 140 telephonic conversations between the petitioner and the complainant, which *prima facie* establishes link and the dealings.

7. While deciding bail petitions, the courts neither indict nor absolve the accused and confine to the justification for pre-trial incarceration when the allegations are one-sided without any opportunity for the accused to rebuttal. Having been aware of the fatigue of facing prosecution is so cumbersome that it affects a person's liberty, which violates their fundamental right guaranteed under Article 21 of the Constitution of India, the Court performs a balancing act, balancing between the implications of crime before the communities, society at large, victim, victim's family, accused and their family, and the State. The petition is for anticipatory bail under Section 438 CrPC, and the parameters for anticipatory bail differ from regular bail. If this Court grants anticipatory bail to these visa thugs, it would send a wrong message to society, and it would lead to more such incidents of cheating innocent people.

8. Today, in this wired and connected globe, when access to almost every facility and every commodity is one click away, and the world is a global village, all eyes dream of a better, brighter, and more beautiful future. To actualize this dream of climbing up the social ladder and securing a more comfortable and prosperous lifestyle, people and especially based on ground realities, youth of Punjab and Haryana, aim at crossing borders in hopes to find and explore untapped opportunities, that they believe are just waiting for them. This vision of finding greener pastures in an otherwise unseen land, based on the inspiring success stories of friends, relatives, and peers, many times leads to a desperate mindset that impulsively want to grab at any hands that extend to move them abroad. Deceitful visa thugs capitalize and take advantage of such optimistic hopes of ill-informed, desperately desirous people, entrapping people's trust and aspirations in the palm of their hands, extorting money under false assurances.

9. The allegations pertain to cheating on assuring visa under the garb of payment of money. Although the complainant also knew that they were paying money to get a Visa through illegal means, and undoubtedly, later on cried foul, it is just like the kettle calling the pot black, but a con cannot seek bail because of the victim's vulnerability. The sly way the petitioner conned, tricked, deceived, swindled, and defrauded the gullible complainant pointed out the dangerous trend of the revival of *thugee*. It is imperative that we sternly deal with this now, as if not, it might upsurge, revisiting

history. The workings of such thugs need to be put to a stop, as these criminals are not only playing with the lives of the victims of such cheating but are working against the development of society and making a mockery of simple public aspirations. Although the complainant knew that they were paying to get a visa through illegal means, one can't disregard what is happening in the system.

10. The allegations against the petitioner pertain to cheating the complainant on assuring visa under the garb of payment of money and whereabouts of his son are not available as to in which country he is. Considering the severe nature of the allegations and the amount involved, the petitioner fails to make a case for bail.

11. In Sumitha Pradeep v Arun Kumar CK, 2022 SCC OnLine SC 1529, Supreme Court holds,

> [16]. … We have noticed one common argument being canvassed that no custodial interrogation is required and, therefore, anticipatory bail may be granted. There appears to be a serious misconception of law that if no case for custodial interrogation is made out by the prosecution, then that alone would be a good ground to grant anticipatory bail. Custodial interrogation can be one of the relevant aspects to be considered along with other grounds while deciding an application seeking anticipatory bail. There may be many cases in which the custodial interrogation of the accused may not be required, but that does not mean that the prima facie case against the accused should be anticipatory bail. The first and foremost thing that the court hearing an anticipatory bail application should consider is the prima facie case put up against the accused. Thereafter, the nature of the offence should be looked into along with the severity of the punishment. Custodial interrogation can be one of the grounds to decline anticipatory bail. However, even if custodial interrogation is not required or necessitated, by itself, cannot be a ground to grant anticipatory bail.

12. Any observation made hereinabove is neither an expression of opinion on the case's merits, neither the court taking up regular bail nor the trial Court shall advert to these comments.

Petition dismissed in aforesaid terms. All pending applications, if any, stand disposed.

(ANOOP CHITKARA)
JUDGE

May 22, 2024
AK

Whether speaking/reasoned : Yes
Whether reportable : No