



IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

CRM-M-21725-2024
Date of decision: 14.10.2024

VIPUL MALHOTRA ...PETITIONER

Versus

STATE OF PUNJAB ...RESPONDENT

CORAM:- HON'BLE MR. JUSTICE SANJIV BERRY

Present: - Ms. Hargun Sandhu, Advocate for the petitioner.

Mr. Ankit Grewal, DAG, Punjab.

Mr. Ashish Kaushik, Advocate for
Mr. A.P.S. Sandhu, Advocate for the complainant.

SANJIV BERRY, J. (ORAL)

By way of present petition filed under Section 438 of Cr.P.C.,
petitioner seeks anticipatory bail in case FIR (Annexure P-1) as under:

FIR No.	Dated	Sections	Police Station
09	28.03.2024	420, 120-B of IPC	NRI, Police Commissionerate Amritsar.

2. Learned counsel for the petitioner submits that in compliance to the order dated 28.05.2024 passed by this Court, the petitioner has already joined the investigation and as such prayed for confirming the interim bail granted vide order dated 28.05.2024.

3. Learned State counsel, on instructions received from ASI Vijay Kumar, intimates the Court that the petitioner has joined investigation and is neither required for further investigation nor for any custodial interrogation.



CRM-M-21725-2024

2

4. Learned counsel appearing on behalf of counsel for the complaiant opposed the submissions made by learned counsel for the petitioner.

5. During the course of hearing on 28.05.2024, following order was passed:

“Heard.

2. It is inter alia contended by learned counsel for the petitioner that the petitioner has been falsely implicated in this case due to matrimonial dispute inter se the complainant and the daughter of the petitioner. He further contends that after marriage, the daughter of the petitioner had gone to Australia for study purpose. The complainant could not go to Australia as his VISA was declined by the authorities. He submitted that although the complainant had paid amount of 6,000 Australian dollars towards fees of the daughter of petitioner (wife of the complainant) but that was not on account of any fraudulent intent on the part of the petitioner and even the daughter of the petitioner had returned 3,000 Australian dollars back to the complainant. He contends that the instant case got lodged by the complainant just to exert pressure on the petitioner and his daughter. Although, they have not committed any crime nor defrauded the complainant in any manner, he referred to the opinion expressed by the Additional Director General of Police, NRI Wing, Punjab, Phase-7, SAS Nagar (Mohali), in the FIR itself to say that even the authorities were of the view that there are transactions between both the sides in this case and no offence of cheating



CRM-M-21725-2024

3

could be established and the dispute qua dishonouring of the terms of contract would only amount to civil offence and the boy side can approach the civil Court for redressal of their grievance.

3. *Learned Senior counsel for the petitioner contends that somehow despite the specific opinion of the then Additional Director General of Police, NRI Wing, the complainant got the FIR registered, thereby falsely implicating the petitioner and his daughter. He submitted that even the petitioner is ready to deposit the amount spent by the complainant on the education of his daughter, subject to decision of the case. The petitioner has no criminal antecedents and is ready to join the investigation.*

4. *Per contra, learned State counsel assisted by learned counsel for the complainant have assailed, by referring to the reply submitted by the police, to argue that the petitioner along with his daughter have defrauded the complainant. They submitted that the complainant provided financial assistance for sending his wife (daughter of the petitioner) to Australia on Study VISA with the assurance that she will facilitate calling him to Australia but after going to Australia, the daughter of the petitioner did not cooperate. The VISA filed by the complainant was rejected by the authorities. They contended that all this has been done in connivance with each other by the accused with clear intent to defraud them.*

5. *To a specific query to learned counsel for the complainant qua the offer given by learned counsel for the petitioner qua deposit of the amount in question subject to decision of the case, the learned*



counsel for the complainant categorically stated that he has instructions not to accept such proposal.

6. *After considering the rival contentions and perusing the record, it is deemed appropriate that the petitioner should join the investigation first before deciding the petition on merits and accordingly, the petitioner is directed to join investigation within seven days from today and in the event of his arrest, he is ordered to be released on interim bail on his furnishing personal/surety bonds to the satisfaction of the Arresting Officer/Investigating Officer. He shall also abide by conditions as envisaged under Section 438(2) Cr.P.C.*

7. *List on 23.07.2024.”*

6. Keeping in view the above submissions made by learned State counsel and the fact that the petitioner had joined the investigation consequent to the order dated 28.05.2024 passed by this Court, interim bail granted vide order dated 28.05.2024 is hereby confirmed, subject to conditions as envisaged under Section 482 (2) of BNSS, 2023. Further the petitioner is directed to join investigation as and when required in future by way of written notice for such purpose to be served by Investigating Officer of this case upon the petitioner; he will not tamper with the evidence nor will influence the witnesses and will not leave the country without prior permission of the Court.

7. The petition stands allowed.



CRM-M-21725-2024

8. It is made clear that anything contained hereinabove shall not be construed to be an expression of opinion on the merits of the case.

(SANJIV BERRY)
JUDGE

14.10.2024
kanika

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| i) | Whether speaking/reasoned? | Yes/No |
| ii) | Whether reportable? | Yes/No |