

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

220

2024:PHHC:027488

CRM-M-24828-2023

Date of decision: February 27, 2024

RAJWINDER SINGH

...Petitioner

Versus

STATE OF PUNJAB

...Respondent

CORAM: HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

Present: Mr. Ravi Malhotra, Advocate
for the petitioner.

Mr. Navdeep Singh, Deputy Advocate General, Punjab.

MANJARI NEHRU KAUL, J. (ORAL)

1. The instant petition has been filed under Section 439 of the Code of Criminal Procedure, 1973 for grant of regular bail to the petitioner in case FIR No.63 dated 21.05.2018 under Sections 406, 420, 467, 468, 471 of the Indian Penal Code, 1860 and Section 13 of the Punjab Prevention of Human Smuggling Act, 2012, registered at Police Station Haibowal, District Police Commissionerate Ludhiana.

2. Before proceeding further, it would be apposite to reproduce the relevant portion of the FIR in question hereinbelow: -

"At this time, a complaint bearing UID No. 1296278, Dated: 20.03.2018, has been received from Ajay Kumar son of Gurnam Raj, resident of H.No. 7149, Street No. 4, Durga Puri, Haibowal Kalan Ludhiana, for registration of case. Contents of the same is as under:- To, Police Commissioner, Ludhiana, Sub: Regarding committing cheating of lacs of rupees with us by showing forged visa, Sir, it is submitted that, I am Ajay Kumar Batta, resident of 7149, Durgapuri Haibowal Kalan, Ludhiana and submit that I saw the advertisement in television regarding, "Contact for going Canada, meet Raj Travel Rajpura (Mobile No. 89691140058) and we made call to him and Raj Karan Picked up the Phone and struck the deal in Rs. 23 Lacs for Canada. On the very next day

Raj Karan received the passport of my son Bharat Batta and Rs. 50,000/- advance from our house, After some days Raj Karan got deposited Rs. 1500/- for medical in account of one Rajwinder Singh (HDFC BANK 50100007676694) on Dated: 04.01.2018 and after some days, Raj Karan sent a copy of visa from his Mobile Phone to the Mobile Phone of my son i.e. 6239302815 and demanded money and on this, we sold our gold and collected Rs. 5 lacs and Rs. 5 Lacs (me and my wife Manju Batta) withdrawn from our Bank, State Bank of India, on Dated: 26.02.2018 and paid to Raj Karan, but after that Raj Karan started demanding more money and on this we got suspicion and we said to Raj Karan that we will pay balance amount after reaching our son at Canada, but he started procrastination, but now Raj Karan is neither returning our money nor passport of my son nor sending my son Canada. We request you to take legal action against Raj Karan and our money and passport be got returned. Thanking you, Sd/- Ajay Batta”

3. Learned counsel for the petitioner *inter alia* contends that the petitioner has been in custody since 21.03.2023 in a magisterial trial; there is no likelihood of the trial concluding in the near future as 9 prosecution witnesses still remain to be examined. Learned counsel has further submitted that even as per the allegations levelled in the FIR, which has been reproduced in the body of the language, only Rs.1,500/- was deposited in the bank account of the petitioner by the complainant for sending his son to Canada. Learned counsel submits that totally false allegations had been levelled therein that the complainant had been assured by the petitioner that in case he parted with Rs.23 lakhs, a Canadian visa would be arranged for his son and thereafter, he would be sent to Canada. Learned counsel submits that it is highly improbable that a sum of Rs.10,62,000/- out of the settled amount of Rs.23,00,000/- would have been given in cash by the complainant without there being any corresponding withdrawals from the bank.

4. *Per contra*, learned State counsel, while opposing the prayer and submissions made by the learned counsel for the petitioner, on instructions, has

informed the Court that 8 witnesses out of the 17 cited by the prosecutions had been examined. Learned State counsel has not disputed that the case in hand rests on documentary evidence, however, learned State counsel has brought to the notice of this Court that the petitioner is involved in 3 other cases of similar nature. He has further brought to the notice of this Court that the next date fixed before the learned trial Court is 11.03.2024, when some more witnesses are likely to be examined.

5. I have heard learned counsel for the parties and perused the material placed on record.

6. The petitioner has been in custody for more than a year in magisterial trial. The trial will take some time to conclude as 17 witnesses have been cited by the prosecution and only 8 have been examined till date.

7. In the facts and circumstances as enumerated hereinabove, this Court deems it fit to extend the concession of bail to the petitioner. Accordingly, the instant petition is allowed; the petitioner be admitted to bail to the satisfaction of the trial Court/Duty Magistrate concerned.

8. However, it is made clear that anything observed hereinabove shall not be construed to be an expression of opinion on the merits of the case.

9. Needless to add here, in case the petitioner is found misusing the concession of bail, the State would be at liberty to approach this Court to seek cancellation of bail to him.

February 27, 2024
Jaspreet Kaur

(MANJARI NEHRU KAUL)
JUDGE

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No