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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-27860-2024 (O&M)
DECIDED ON: 29.05.2024

HARWINDER SINGH

.....PETITIONER

VERSUS

STATE OF U.T CHANDIGARH

.....RESPONDENT

CORAM: HON'BLE MR. JUSTICE SANDEEP MOUDGIL

Present: Mr. Varun Chawla, Advocate
for the petitioner.

Ms. Vasundra Dalal, Addl. P.P.UT, Chandigarh

SANDEEP MOUDGIL, J (ORAL)

1. The jurisdiction of this Court has been invoked under Section 438 Cr.P.C., seeking anticipatory bail to the petitioner in FIR 71 dated 03.04.2024, under Sections 420, 120B OF IPC, 1860, and section 24 of Immigration Act, registered at Police Station Police Station Sector 31 Chandigarh.
2. Learned counsel for the petitioner contends that the petitioner has been falsely implicated in the present case. And as agreed between the petitioner and complainant he has provided all sort of visa consultancy and in that regard an amount of Rs.6,00,000/-stands received by the petitioner in his wife account.
3. He further argues that after getting the visitor visa issued for New Zealand to the complainant she was required to stay there for getting it converted into work visa and for that she was required to go through the interview which she herself refused and therefore no fault can be fastened upon the petitioner.
4. Per contra learned State counsel vehemently opposes the prayer made in the present petition on the ground that the petitioner and her husband have actively connived with each other in the commissioning of the offence



5. Heard learned counsel for the parties.

6. No other argument has been raised by either of the parties.

7. Be that as it may, considering the fact that the allegations against the petitioner is of serious nature wherein he has indulged himself in the immigration fraud which is on high rise these days and these travel agents are taking undue advantage of the unemployed youth by duping them of lakhs of rupees by showing them the dreams of settling in the foreign country. Moreover, in the present case in hand, the petitioner firstly arranged visitor visa for the complainant and assured her that first you reach there and thereafter, he will arrange for her work permit thereafter and on his assurance, the petitioner went to New Zealand and stayed there for six months and was forced to return back as she was not made available the work permit as was promised by the petitioner. Further more the petitioner has received a sum of Rs.6 lakhs from the complainant wherein direct allegations are levelled against him. Therefore, its a high time that this kind of practice needs to be curbed wherein these travel agents on the pretext of sending the students abroad dupes them of lakhs of rupees.

8. More so, investigation is still going on in the present case. It is settled proposition of law that power exercisable under Section 438 Cr.P.C., is somewhat extraordinary in character and it is to be exercised in exceptional cases. The Supreme Court in “State vs. Anil Sharma”; (1997) 7 SCC 187, held as under:-

“We find force in the submission of the CBI that custodial interrogation is qualitatively more elicitation oriented than questioning a suspect who is well ensconded with a favourable order under Section 438 of the code. In a case like this effective interrogation of a suspected person is of tremendous advantage in disinterring many useful informations and also material which would have been concealed. Success in such interrogation would elude if



the suspected person knows that he is well protected and insulated by a pre-arrest bail order during the time he is interrogated. Very often interrogation in such a condition would reduce to a mere ritual. The argument that the custodial interrogation is fraught with the danger of the person being subjected to third-degree methods needs not be countenanced, for, such an argument can be advanced by all accused in all criminal cases. The Court has to presume that responsible police officers would conduct themselves in a responsible manner and that those entrusted with the task of disinterring offences would not conduct themselves as offenders.”

9. Therefore, in view of the submissions made hereinabove, this Court deems it fit that custodial interrogation of the petitioner is required to unearth the ramifications involved in the present case.

10 Hence, the present petition is dismissed being devoid of any merits.

(SANDEEP MOUDGIL)
JUDGE

29.05.2024
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Whether speaking/reasoned	Yes/No
Whether reportable	Yes/No