



IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

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CRM-M-29740-2024

Date of Decision : **August 13, 2024**

SUSHANT KAUSHIK

.....Petitioner

VERSUS

STATE OF PUNJAB

.....Respondent

CORAM: HON'BLE MR. JUSTICE KULDEEP TIWARI

Present : Mr. G.S.Gill, Advocate
for the petitioner.

Mr. Sahil R. Bakshi, AAG, Punjab.

KULDEEP TIWARI, J. (Oral)

1. On 12.6.2024, this Court had passed the hereinafter extracted order, upon the instant petition:-

“1. Through the instant petition, as instituted under Section 438 of the Cr.P.C., the petitioner seeks the concession of anticipatory bail, in case FIR No.05 dated 25.11.2023, under Sections 406 and 420 of the IPC, and, Section 24 of the Emigration Act, 1983, registered at P.S. N.R.I., District Patiala.

2. Succinctly stated, the allegations against the petitioner are that, he sent the complainant and his wife to Ukraine with assurance of work permit, but, they were sent there on study permit and even the T.R.C. card issued to them was found to be fake. In this way, the petitioner cheated the complainant for Rs.15,00,000/-.

3. The learned counsel for the petitioner submits that the story of work permit, as cooked up by the complainant,



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is in fact totally false, inasmuch as, the complainant and his wife were to be sent to Ukraine on study visa and they were accordingly sent there on study visa. He further submits that, owing to bad conduct of the complainant, he was thrown out of the University concerned. Thereafter, on account of outbreak of dispute between Russia and Ukraine, the complainant and his wife returned to India and then filed a false complaint, just to recover the amount which was given by them to the petitioner for sending them to Ukraine on study visa.

4. *Notice of motion for 13.08.2024.*

5. *Mr. Pardeep Bajaj, D.A.G., Punjab, accepts notice on behalf of respondent-State of Punjab.*

6. *In the meantime, the petitioner is directed to join the investigation and to appear before the investigating agency, as and when called upon to do so. In the event of his arrest, he shall be admitted to interim bail on his furnishing bail bonds to the satisfaction of the Arresting/Investigating Officer. The petitioner shall abide by the terms and conditions as envisaged under Section 438(2) Cr.P.C.”*

2. Learned counsel for the petitioner submits that in deference to the directions issued by this Court, the petitioner has joined the investigation and fully co-operated with the same.

3. On the other hand, the learned State counsel has filed the status report dated 10.8.2024 by way of an affidavit of DSP, NRI Wing, Patiala, the same is taken on record.

4. A perusal of the status report reflects that though the petitioner has joined the investigation but he has not got recovered the cheated amount.



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This Court is of the view that the instant criminal proceedings cannot be converted into a suit for recovery. The prosecution is yet to establish the fact that the petitioner has received the cheated amount from the complainant before the learned trial Court concerned.

5. In view of the above, the hereinabove extracted interim order dated 12.6.2024, is hereby made **absolute**, subject to the hereinafter extracted conditions:-

“(i) the petitioner(s) shall not commit an offence similar to the present offence;

(ii) the petitioner(s) shall not directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of the case;

(iii) the petitioner(s) shall make himself/herself available for interrogation by a police officer as and when required.”

6. This order should not be treated as “blanket” order. It will not be read granting petitioner(s) indefinite protection from arrest. It shall be confined to the FIR mentioned *ibid* and will not operate in respect of any other incident that involves commission of an offence.

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

August 13, 2024
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(KULDEEP TIWARI)
JUDGE

Whether speaking/reasoned. : Yes/No
Whether Reportable. : Yes/No