IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRM-M-34999-2024
Reserved on: 09.09.2024
Pronounced on: 26.09.2024

Vijender ...Petitioner

Versus

State of Haryana …Respondent

CORAM: HON'BLE MR. JUSTICE ANOOP CHITKARA

Present: Mr. Gaurav Tyagi, Advocate for the petitioner.

Mr. Aashish Bishnoi, D.A.G., Haryana.

Mr. Parminder Singh, Advocate for the complainant.

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ANOOP CHITKARA, J.

FIR No.	Dated	Police Station	Sections
779	09.12.2023	Gharaunda, District Karnal, Haryana	406/420/120-B IPC, 1860

1. The petitioner incarcerated in the FIR captioned above had come up before this Court under Section 439 CrPC, 1973/Section 483 of Bharatiya Nagarik Suraksha Sanhita, 2023, [BNSS], seeking regular bail.

2. In paragraph 30 of the bail petition, the accused declares that he has no criminal antecedents.

3. The facts and allegations are being taken from the status report filed by the State, which reads as follows:

> "*2. That in compliance of the order passed by this Hon'ble Court, it is submitted that on 09.12.2023, SI Shyam Sunder was present at the police station, he received complaint submitted jointly by Rishipal son of Mehar Singh, Virender Son of Vijay, Rakesh Kumar son of Amarnath and Siya son of Kali Ram addressed to Superintendent of Police, Karnal. It was stated in the complaint tta they came in contact with Parveen son of Ranbir Singh resident of Kurukshetra; who told them tat he would send their children abroad and he has links with several officers and*

politician; he can get the work permit for Canada and procure a job; the future of children would be bright; they all fell for his words. Vijender was also present with Parveen, Vijender told that they had already sent about 500 children abroad; Parveen and Vijender are both Principal at Gurukul Pundri; they both got acquainted them with a man at Karan Lake; the name of that man they disclosed as Rajinder resident of Mohali; they were told that Rajinder is owner of R.D. Enterprises that children would be send abroad within three months; the payment was to be made at the earliest; if the payment is made today then the process would be initiated today itself or else the matter would be delayed. Upon faith on all three of them; complainant Rishipal transferred an amount of Rs. 50,000/- by Google Pay on 19.08.2022; Rs. 50,000/- by Google Pay on 20.08.2022; Rs. 2,00,000/- through cheque bearing No. 000458, Rs. 12,00,000/- through RTGS on 29.08.2022 from account No. 915030038741782 in the name of Parveen, Rs. 60,000/- by Google Pay on 14.06.2023, Rs. 15,000/- by Google Pay on 15.06.2023 in the name of Parveen Kumar son of Raghubir Singh account No. 17160001020450025, Rs. 5,00,000/- cash on 10.08.2023 to Vijender resident of Kurukshetra, Complainant Virender transferred Rs. 2,00,000/- through RTGS on 06.09.2022, Rs. 2,00,000/- through RTGS on 27.09.2022 and complainant Rakesh transferred Rs. 2,00,000/- through RTGS on 22.07.2022, Rs. 1,00,000/- through cheque on 18.08.2022, Rs. 90,000/- through Google pay on 26.08.2022, Rs. 10,000/- through Google Pay on 27.08.2022 in the name of Parveen son of Raghubir account No. 17160001020450025.Complainant Siya Ram transferred Rs. 5,00,000/- through RTGS on 18.08.2022 in the account of R.D. Enterprises A/C 10080808299 total amount of Rs. 33,75,000/- was given to these peoples. They committed cheating with them. They used to take the complainant and others to Chandigarh several times and used to state that work would be done; in this manner they made complainant and other run from the pillar to post; these people are indulge in "kabootarbazi" and usurps people's money; when they demanded their money back; they gave threat of life and stated that they would be done to death and thrown to a place where the police would not be able to trace out; legal action may be taken. On this complaint a case bearing FIR No. 779 dated 09.12.2023 U/S 406/420 of IPC Police Station Gharaunda, District Karnal was registered against the petitioner/accused Vijender and *his co-accused Parveen and Rajinder.”*

4. The petitioner's counsel prays for bail by imposing any stringent conditions and contends that further pre-trial incarceration would cause an irreversible injustice to the petitioner and their family.

5. The State’s counsel opposes bail and refers to the status report.

6. It would be appropriate to refer to the following portions of the status report, which read as follows:

> “*A.* ***The role of the petitioner:*** *In the present case, the role of the present petitioner is that he acting conjointly with co-accused, they made dishonest inducements to the complainants to send their children abroad and that accused would obtain work permit and would procure job from the children of the complainants; the present petitioner/accused portrayed that about 500 children were sent abroad in this manner and cheated them of valuable consideration amount to the tune of Rs. 33,75,000/-. Thus the present petitioner actively participated in design to dupe and cheat the complainants.*
>
> *B.* ***The evidence against the petitioner****: During the course of investigation sufficient incriminating evidence came of file against the petitioner. The present petitioner Vijender is named in the FIR as one of the main culprit, who made dishonest inducements to the complainants and cheated them of their hard earned money. There are specific allegations regarding money given to petitioner/accused. He is directed beneficiary of consideration amount of Rs. 5 lacs paid to him in cash on 10.08.2023 and recovery of Rs. 20,000/- was also effected from him in pursuance of his disclosure statement. Co-accused Parveen has transferred total amount of Rs. 2,75,000/- to the account of petitioner/accused during the period from 01.03.2023 to 15.06.2023, whereas even the amount deposited towards fee in Canadian Embassy for sending children abroad to the rune of Rs. 2,36,267/- had also been found transferred from his bank account. Thus reveals that the petitioner/accused apart from being a government teacher, is also involved in the work of sending people abroad. After investigation on finding complicity of the petitioner for the grave offences under section 406/420 of IPC challan against him for the commission of said offences has been submitted in the Ld. Court. It is further submitted that there is a real apprehension that in case the*

> *petitioner/accused is granted bail, he might repeat the offence again, influence the prosecution witnesses and otherwise abscond from the process of law. Thus the present petition deserves to be dismissed."*

7. There is sufficient primafacie evidence connecting the petitioner with the alleged crime. However, per paragraph 22 of the bail petition, the petitioner has been in custody since 31-12-2023. Per the custody certificate dated 03.08.2024, the petitioner's total custody in this FIR is 7 months and 3 days. Given the penal provisions invoked viz-a-viz pre-trial custody, coupled with the primafacie analysis of the nature of allegations, and the other factors peculiar to this case, there would be no justifiability further pre-trial incarceration at this stage.

8. Without commenting on the case's merits, in the facts and circumstances peculiar to this case, and for the reasons mentioned above, the petitioner makes a case for bail. This order shall come into force from the time it is uploaded on this Court's official webpage.

9. Given above, provided the petitioner is not required in any other case, the petitioner shall be released on bail in the FIR captioned above subject to furnishing bonds to the satisfaction of the concerned Court and due to unavailability before any nearest Ilaqa Magistrate/duty Magistrate. Before accepting the surety, the concerned Court must be satisfied that if the accused fails to appear, such surety can produce the accused.

10. While furnishing a personal bond, the petitioner shall mention the following personal identification details:

1.	AADHAR number	
2.	Passport number (If available) and when the attesting officer/court considers it appropriate or considers the accused a flight risk.	
3.	Mobile number (If available)	
4.	E-Mail id (If available)	

11. This order is subject to the petitioner's complying with the following terms.

12. The petitioner shall abide by all statutory bond conditions and appear before the concerned Court(s) on all dates. The petitioner shall not tamper with the evidence, influence, browbeat, pressurize, induce, threaten, or promise, directly or indirectly, any witnesses, Police officials, or any other person acquainted with the facts and circumstances of the case or dissuade them from disclosing such facts to the Police or the Court.

13. Any observation made hereinabove is neither an expression of opinion on the case's merits nor shall the trial Court advert to these comments.

14. A certified copy of this order would not be needed for furnishing bonds, and any Advocate for the Petitioner can download this order along with case status from the official web page of this Court and attest it to be a true copy. If the attesting officer wants to verify its authenticity, such an officer can also verify its authenticity and may download and use the downloaded copy for attesting bonds.

15. **Petition allowed** in terms mentioned above. All pending applications, if any, stand disposed of.

(ANOOP CHITKARA)
JUDGE

26.09.2024
Jyoti Sharma

Whether speaking/reasoned: Yes
Whether reportable: No.