

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-35549-2024
Reserved on: 06.08.2024
Pronounced on: 30.08.2024

Mohan ...Petitioner

Versus

State of Haryana ...Respondent

CORAM: HON'BLE MR. JUSTICE ANOOP CHITKARA

Present: Mr. Mohan Singh Rana, Advocate
for the petitioner.

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

Mr. Vikram Singh, Advocate
for the complainant.

ANOOP CHITKARA, J.

FIR No.	Dated	Police Station	Sections
163	17.04.2024	Tararoi, District Karnal	406, 420 IPC, 1860 and Section 24 of the Immigration Act

1. The petitioner apprehending arrest in the FIR captioned above has come up before this Court under Section 438 CrPC, 1973, seeking anticipatory bail.
2. In paragraph 13 of the bail petition, the accused declares that he has no criminal antecedents.
3. The facts and allegations are being taken from the translated copy of FIR annexed with the bail petition as Annexure P-1, which reads as follows:

“An application number 919-PESHI dated 03.04.2024 of Rajneesh Kumar, S/o Joginder Kumar, Rio Ward No. 4, Dodwa, PS Tarawadi, District Kamal, was received through Post. Contents of which are as under. To, Superintendent of Police, Kamal. Subject:- Complaint regarding cheating and harassing in the name of sending abroad. Sir, it is requested that I, Rajneesh Kumar S/o Joginder Kumar am a resident of Dodwa, ward no. 8, Taraori, Tehsil Neelokhedi, District Karnal. In the name of sending me abroad, I was cheated of Rs 8,00,000/- (Eight Lakh Rupees). The name of the agent who sent me abroad is Mohan Kumar (Mob. No. 9416862388), S/o Sumer Chand (mother Krishna), who is a resident of Dodwa Tarawadi. I was first sent to Dubai, from there instead of being sent to Portugal, I was sent in a taxi to Russia and then to Belarus and was kept trapped in the forest, where I was kept hungry and thirsty. I was beaten up and my passport was also taken away from me. I returned home from there with the help of immigration on EC certificate. After coming home, when I went to Mohan Kumar (Agent)'s house to get my money back,

his two sisters Seema (Mob. No. 8708691039) and Sushma, one of whom is in Haryana Police and the other sister is a lawyer, threatened me in front of Mohan that police station and court are open, do whatever you can, we are not afraid of anyone, Now. Mohan has been absconding from his house for a month and when we were going to his house to inquire about Mohan's address, his family members abused me and kept misleading us. They are putting the responsibility of Mohan's disappearance on me and are trying to implicate me. Whereas my family members, with great difficulty, were able to send the Rs 8 lakh that we had given to Mohan to send me abroad. Mohan was arrested by Delhi police some time ago. Now he has been released on bail and has come home. Whatever money we gave to Mohan is as follows Rs 1,80,000/- through mobile on 05.08.2023, Rs 2,20,000/- in cash (withdrawn from our ATM card) on 05.08.2023. I had taken Rs 1,50,000/- in dollars to Dubai on 09.08.2023, this was also taken away from me by Mohan's men. Rs.3,52,000/- to Mohan's house on 10.08.2023. I called him at my home and gave him Rs 4/4,50,000/- on 20.12.2023, we have video recording of this. Rs 5,40,000/- is room rent and food expenses. Rs. 6.9,000/- paid through online on November 2023. Rs.7.31,500/- were given on 10.11.2023 for making White Passport. That we had given an application to your office earlier also. Regarding which we were never called nor were we heard. Rather, the police, in collusion with the accused, filed a false case FIR no. 122 dated 21.03.2024, U/s 323, 365, 452 IPC, Police Station Tarawadi, District Karnal against us. Vikram @ Vicky was arrested ori the spot and the Hon'ble court of Mrs. Neelam J.M.I.C. Karnal has granted bail. A copy of whose order is attached. The above amount is more than Rs 8,00,000/-. Which Mohan has spoiled all of it and I was in bad condition for 3-4 months. Now I have given him the passport to made it again, he was having my passport ID, which he is not giving me now. Due to which my passport is also on hold now.”

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

“2. That after registration of FIR, the investigation of the case was conducted by SI Kailash No. 2242/FBD, who during the course of investigation taken into possession the relevant record relating the case and recorded the statements of the witnesses. The investigation duly conducted by the Investigating Officer was duly verified by Sh. Nayyab Singh, HPS, Deputy Superintendent of Police (HQ), Karnal on 02.05.2024 and certain instructions were given to the Investigating Officer by the Deputy Superintendent of Police (HQ), Karnal. Thereafter as per the order No.2555-59/Steno, dated 06.05.2024, the file of the case for further investigation was entrusted to ASI Devender Singh, Investigating Officer, Special Detective unit, Karnal by the In-charge, Special Detective unit, Karnal, who during the course of investigation on the basis of perusal of the case file issued notice dated 13.05.2024 to the petitioner to join the investigation of the case on 15.05.2024, which was duly acknowledged by the petitioner. Thereafter, on 21.05.2024 Parveena, IPS. Assistant Superintendent of

Police, Karnal perused the case file and issued certain instructions to the Investigating Officer, who on 19.05.2024 joined the complainant of the case and the victim Rajnish Kumar and got recorded their respective statements. During the course of investigation on 12.06.2024, the concerned record was obtained from HDFC Bank and statements of the witnesses were recorded. During the course of investigation on 14.06.2024, the concerned record was obtained from The Karnal Co-op. Bank and statements of the witnesses were recorded. During the Course of investigation on 29.06.2024 the nominated accused in the case was also joined in the investigation but he made excuse regarding ailment of his father and left the premises.

7. That in reply to quarry (C) of the order dated 24.07.2024, it is submitted that the aim of the petitioner was to earn money within short span of time in an illegal way and cheat the people society.

8. That in reply to the quarry (D) of the order dated 24.07.2024, it is submitted that in the petition of event of dismissal of the petitioner, the Investigating Officer in compliance of the directions his senior officers will made the petitioner to join the investigation of the case and to get recovered the amount which was deposited in the account No.379902050000675 in Union Bank of India of the petitioner as well as the amount which was extracted by him from the complainant and his family while claiming the custodial custody of the petitioner.”

7. There is sufficient prima facie evidence connecting the petitioner with the alleged offense; still, it is neither a case for custodial interrogation nor pre-trial incarceration because the complainant knew that he was attempting to travel without a legally valid Visa given by the petitioner.

8. Given the above, the penal provisions invoked coupled with the prima facie analysis of the nature of allegations and the other factors peculiar to this case, there would be no justifiability for custodial interrogation or the pre-trial incarceration at this stage. 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 anticipatory bail in the FIR captioned above subject to furnishing bonds to the satisfaction of the Arresting Officer, and if the matter is before a Court, then the concerned Court and due to unavailability before any nearest Ilaqa Magistrate/duty Magistrate. Before accepting the surety, the concerned Officer/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 is directed to join the investigation within seven days and as and when called by the Investigator. The petitioner shall be in deemed custody for Section 27 of the Indian Evidence Act. The petitioner shall join the investigation as and when called by the Investigating Officer or any Superior Officer and shall cooperate with the investigation at all further stages as required. In the event of failure to do so, the prosecution will be open to seeking cancellation of the bail. During the investigation, the petitioner shall not be subjected to third-degree, indecent language, inhuman treatment, etc.

13. 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.

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

15. 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.

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

(ANOOP CHITKARA)
JUDGE

30.08.2024
Jyoti Sharma

Whether speaking/reasoned : Yes
Whether reportable : No.