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IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

Balwinder Singh

CRM-M-36333-2024
Date of decision: 31st August, 2024

State of Punjab

Versus

...Petitioner

...Respondent

CORAM: HON'BLE MRS. JUSTICE MANISHA BATRA

Present: Mr. Avtar S. Khinda, Advocate for the petitioner.

Mr. A.S. Samra, AAG, Punjab.

MANISHA BATRA, J (ORAL):-

The present petition has been filed under Section 438 of Cr.P.C.
seeking anticipatory bail in the FIR mentioned below:-

FIR No.	Dated	Police Station	Sections
60	29.05.2024	P.S. NRI, District Police Commissionerate Amritsar	406, 420, 465, 467, 468, 471, 120-B of IPC, 1860 and Section 24 of the Immigration Act

2. Brief facts of the case relevant for the purpose of disposal of this petition are that the aforementioned FIR was registered on the basis of a written compliant submitted by the complainant Lovepreet Singh alleging therein that the accused Simranjit Kaur, who is daughter of his paternal aunt Kulwinder Kaur, was residing in England. Due to being relative of the

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complainant, they were on talking terms and used to conversate with each other. The accused Simranjit Kaur told him that she wanted to bring her sister-in-law and brother to England and if he too wanted to come there, then he would have to part with a sum of Rs. 17,00,000/- and will also have to perform marriage as per her asking. On being so induced by her, the petitioner performed marriage at the instance of Simranjit Kaur and also agreed to give the amount as asked for by Simranjit Kaur. She told him to send Rs. 10,00,000/- through the petitioner Balwinder Singh who is her father-in-law. When the complainant asked about his bank account details, then Balwinder Singh told him to give the money in cash. On 17.08.2023, an amount of Rs. 10,00,000/- was given to Balwinder Singh in cash who gave it in his presence to one Hamel Patel who sent money abroad through Hawala transaction. Subsequently, on asking of Simranjit Kaur, the complainant gave another amount of Rs. 19,00,000/- to the present petitioner. Sometime, thereafter, accused Simranjit Kaur and Anita represented to him that his spouse letter had been received but another amount of Rs. 6,00,000/- was to be spent by him. The complainant was then made to part give amount of Rs. 5,00,000/-, Rs. 6,00,000 and Rs. 2,00,000/- respectively. Later on visas were got arranged on passport of the complainant and his wife, but they were not allowed by Airport authorities to travel to United Kingdom, on the ground that their visas were not genuine. The complainant then confronted the accused Simranjit Kaur, Anita and petitioner and asked them to refund the money given by him to them but initially they started putting of the matter on one pretext or other and then started threatening and abusing him.

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As such, he prayed for taking action against the petitioner and the co-accused. Apprehending his arrest, the present petitioner had moved an application for grant of pre-arrest bail before the Additional Sessions Judge, Amritsar which was dismissed vide order dated 10.07.2024.

3. The present petition has been filed by the petitioner on the grounds and it is argued by his counsel that he has been falsely implicated in this case. He is not a travel agent. He is merely working as a Mason. Neither any assurance has been given by him to the complainant to send him abroad nor he had received any money from him. Rather as per own case of the complainant, he had transferred money to the co-accused staying abroad. The visa issued in favour of the complainant and his wife had not been verified by the police. Infact, the visas so issued are genuine. The ingredients of offence of forgery or use of any forged document are not attracted. The complainant has not been able to prove the source from where he arranged the amount of Rs. 34,00,000/- as alleged to paid by him to the accused persons. His implication in this case is only because of his being related to co-accused Simranjit Kaur. No recovery is to be effected from him. His custodial interrogation is not required. He is ready to join investigation. Therefore, it is argued that the petition deserves to be allowed.

4. Status report has been filed by respondent-State. It is submitted therein and learned State counsel has vehemently argued that the petitioner in connivance with the co-accused Simranjit Kaur and others, had cheated the complainant by taking an amount of Rs. 34,00,000/- from him by inducing him with fraudulent and dishonest intention to send his wife and

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himself to United Kingdom. Their visas were found to be fake. The petitioner was main facilitator of the subject crime as he received money on behalf of Simranjit Kaur on different occasions. His custodial interrogation is required for conducting thorough investigation in the matter. No extraordinary or sparing circumstance has even otherwise been made out for the purpose of extending benefit of bail to the petitioner. Hence, it is argued that the petition does not deserve to be allowed.

5. I have heard learned counsel for the petitioner as well as learned State counsel at considerable length and have gone through the record carefully.

6. The petitioner in connivance with the co-accused is alleged to have induced the complainant and his wife to England and on that pretext huge amount of money is alleged to have been extracted by the petitioner and co-accused in connivance with each other. Accused Simranjit Kaur is admittedly living abroad and the entire transaction of money which was taken in cash from the complainant has been facilitated through the petitioner. As such, it cannot be stated that he has no role to play in the commission of subject offences. For the purpose of conducting proper investigation in the matter and to elicit the truth about the manner in which conspiracy was hatched by the petitioner with the co-accused to cause wrongful loss of Rs. 34,00,000/- to the complainant, his custodial interrogation is must. Moreso, it is well settled proposition of law that arrest is a part of procedure of the investigation to secure not only the presence of the accused but several other purposes. The powers of anticipatory bail are



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extra ordinary and the same are to be exercised sparingly in exceptional circumstances. The judicial discretion conferred upon the Court has to be properly exercised after application of mind as to the nature and gravity of the accusation, possibility of applicant fleeing from justice and other factors to decide whether it is a fit case for grant of anticipatory bail as such grant to some extent interferes in the sphere of investigation of an offence. The Court must be circumspect while exercising such power for grant of anticipatory bail and it should not be granted as a matter of rule and has to be granted only when the Court is convinced that exceptional circumstances exist to resort to that extra ordinary remedy. In the present case, no such exceptional circumstances warranting exercise of the powers for grant of anticipatory bail by this Court are existing. As such, I am of the considered opinion that the petition does not deserve to be allowed. Accordingly, the same is dismissed.

7. It is clarified that observations made hereinabove shall not be construed as an expression of opinion on the merits of the case.

8. Since the main petition has been dismissed, pending application if any is rendered infructuous.

[MANISHA BATRA]
JUDGE

31st August, 2024

Parveen Sharma

1. *Whether speaking/ reasoned*
2. *Whether reportable*

: *Yes / No*
: *Yes / No*