IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

208 CRM-M-41617-2024
Date of decision: 19th September, 2024

Harsimran Singh Virk

...Petitioner

Versus

State of Haryana

...Respondent

CORAM: HON'BLE MRS. JUSTICE MANISHA BATRA

Present: Mr. Himanshu Sharma, Advocate for the petitioner.

Mr. Neeraj Poswal, AAG, Haryana.

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MANISHA BATRA, J (ORAL):-

The present petition has been filed under Section 482 of Bharatiya Nagarik Suraksha Sanhita, 2023 (for short 'BNSS') seeking anticipatory bail in the FIR mentioned below:-

FIR No.	Dated	Police Station	Sections
96	18.06.2024	Jhansa	406, 420, 120-B of IPC, 1860 and Sections 10 and 24 of Emigration Act

2. As per the prosecution case, a written complaint was submitted by the complainant Jasbir Kaur jointly with Sukhjeet Singh alleging therein that Kamaldeep Singh, co-accused who was acquainted with the

complainant Jasbir Kaur represented to her that the petitioner Harsimran Singh along with the co-accused Paramjeet Singh and his wife Gurpreet Kaur were engaged in the business of sending people abroad and they could arrange for sending her son to USA on payment of an amount of Rs. 45,00,000/- to them. On being induced by accused Kamaldeep Singh, the complainant agreed to send her son-Amanpreet Singh abroad through the petitioner Harsimran Singh and above named co-accused. Accused-Kamaldeep Singh took passport, Aadhar Card, Bank statement and other documents relating to identity of Amanpreet Singh, from the complainant. The petitioner and the co-accused extracted an amount of Rs. 15,07,000/- from the complainant. Out of this amount, an amount of Rs. 4,50,000/- was transferred by Sukhjeet Singh in the bank account of petitioner. The son of the complainant-Jasbir Kaur was taken by the petitioner to Dubai. He was having thousand dollars with him. On reaching Dubai, the above said amount was taken from her son by the petitioner. Her son stayed there for one and half month. On asking of the petitioner, the complainant deposited a sum of Rs. 1,42,00,000/- in the bank account of one Saravjeet Singh. The petitioner sent her son back to India. Sometime, thereafter, the petitioner told the complainant-Jasbir Kaur to arrange a sum of Rs. 7,20,000/- to send her son to Thailand. The above said amount was collected by the petitioner from Amanpreet Singh who was sent to Thailand. Her son was left at his own at Thailand and was somehow called back to India by spending more money by complainant Jasbir Kaur. The petitioner and co-accused neither sent the son of the complainant Jasbir Kaur abroad nor they refunded the money taken by them and thereby caused wrongful loss to her by cheating her. As such, she prayed for taking legal action. After registration of FIR, investigation is underway. Apprehending his arrest, the petitioner had moved an application for grant of anticipatory bail before the Additional Sessions Judge, Kurukshetra which was dismissed vide order dated 01.08.2024.

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. No receipts qua making payment of any amount of money to him by the complainant have been produced by the complainant Jasbir Kaur before the investigating agency to substantiate her claim. A fictitious story has been concocted. No details of the tickets, dates of travel of her son to Dubai or Thailand have been mentioned in the FIR. The petitioner does not know any person with the name of Sarvjeet and has no connection with any such person. A separate transaction made by the complainant with some Sarvjeet has been deceitfully given color of the allegations as levelled in the complaint with a view to extract money from the petitioner.

4. It is further argued that infact, an amount of Rs. 4,50,000/- given by the complainant- Sukhjeet Singh to the petitioner by way of loan, out of which Rs. 2,00,000/- has since been returned. A civil dispute qua transaction of money has been converted into a case of cheating and dishonest misappropriation of property. The ingredients for commission of offences under Section 10 and 24 of Emigration Act are not at all attracted.

The petitioner is ready to join the investigation. His custodial interrogation is not required. No recovery is to be effected from him. Therefore, it is urged that he deserves to be extended benefit of anticipatory bail.

5. Status report has been filed by respondent-State. It is submitted therein and it is argued by learned State counsel that there are serious and specific allegations against the petitioner who extracted an amount of Rs. 15,07,000/- from the complainant Jasbir Kaur for sending her ward to USA. His custodial interrogation is required for thorough investigation of the matter by the police. No extra ordinary or sparing circumstance has even otherwise been made out for the purpose of extending benefit of bail to the petitioner. Learned State counsel while referring to Annexure R-2 which is copy of Whatsapp chat that is stated to have taken place between the petitioner and the complainant, has submitted that the petition does not deserve to be allowed. A perusal of this chat reveals that the same is with reference to sending son of the complainant abroad as well as transaction of money.

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

7. The petitioner in connivance with the co-accused is alleged to have extracted an amount of Rs. 15,07,000/- from the complainant Jasbir Kaur on the pretext of sending her son abroad. Out of this amount, an amount of Rs. 4,50,000/- was paid to him through RTGS. An amount of Rs.

2,00,000/- has since been returned by the petitioner and an amount of Rs. 13,07,000/- is still to be paid. The allegations against the petitioner are serious in nature as innocent complainant has been duped of her hard earned money on being induced that the petitioner and co-accused would send her son abroad. 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 to the complainant, his custodial interrogation is must. 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 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.

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

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

[MANISHA BATRA]
JUDGE

19th September, 2024
Parveen Sharma

1. Whether speaking/ reasoned : Yes / No
2. Whether reportable : Yes / No