IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

211

CRM-M-46047-2024
Date of decision: September 20th, 2024

Shamsher Singh

.....Petitioner

Versus

State of Haryana

.....Respondent

CORAM: HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

Present: Mr. Kanwaljeet Singh Brar, Advocate
for the petitioner.

Mr. Gagandeep Singh Chhina, Assistant Advocate General, Haryana.

MANJARI NEHRU KAUL, J. (ORAL)

Petitioner is seeking the concession of bail under Section 483 of the Bharatiya Nagarik Suraksha Sanhita, 2023 (BNSS) in case FIR No.588 dated 30.11.022 under Sections 406, 420 read with Section 34 of the IPC registered at Police Station Sadar Sirsa.

2. Learned counsel for the petitioner contends that the petitioner has been in custody since 05.01.2024 in a case of false implication. Allegedly the petitioner along with his son i.e. the co-accused, lured the complainant to part with ₹9.5 lakh on the pretext of providing his son with employment in a hotel in London. It has been submitted by the learned counsel that since the investigation in the present case is complete and challan also stands presented, further incarceration of the petitioner would serve no useful purpose as prosecution evidence has not yet commenced. It has also been brought to the notice of this Court that the case was being adjourned time and

again by the trial Court on account of the non-appearance of the prosecution witnesses even though on a couple of dates they were summoned through bailable warrants.

3. *Per contra,* learned State counsel while opposing the prayer and submissions made by the counsel opposite, has reiterated the allegations levelled in the FIR, which has been annexed as Annexure P-1 and stands reproduced hereinunder:-

> *"To the DGP, Haryana Police, Panchkula. Application for taking action by registering FIR against 1.* **Shamsher Singh** *son of Babu Singh, 2. Navneet Singh son of Shamsher Singh, resident of village Sikanderpur, District Sirsa, mobile no. 86890-92141, 3. Balwinder Kaur @ Rozy Lamba daughter of* **Shamsher Singh** *(wife of Sarabjit Singh Mohali), resident of New Max City, Ranimajra, SAS Nagar, Punjab, mobile no. 98143-65299. Sir, the applicant submits as under: 1. That the applicant is resident of District Sirsa. That the applicant was introduced to accused no. 1* **Shamsher Singh** *and his son Navneet Singh by Baljinder Singh son of Harbans Singh, resident of Khairpur, District Sirsa in the District Court Sirsa. That in the month of December, 2019, the accused no. 1 & 2 met the applicant for 2-3 times in the District Court Sirsa and they asked from the applicant that what is his son doing and then the applicant stated that his son Akshpreet Singh have done graduation and then the accused no. 1 & 2 stated that they have purchased Hotel in London and they are owners of the Hotel and they require 5 to 7 persons for working in that Hotel and then accused no. 1 & 2 showed the photograph of the Hotel and started saying that they will appoint his son as Manager in the Hotel at London as Manager and your son will earn crores of rupees in few months, but you have to take Rs.10 lacs for this. That the abovesaid Hotel is in the name of* **Shamsher Singh** *and his son Navneet Singh and daughter Balwinder Kaur and they have already sent 7/8 persons till today to London who are working in their Hotel and earning crores of rupees and it is our*

*responsibility to appoint your son as a Manager because we are three owners of the Hotel then the applicant has faith on accused no. 1 and 2 and accused Navneet has demanded money from the applicant, the amount of Rs.,50,000/-, which the applicant has transferred through N.E.F.T. on 16.04.2020 in the account no. 02991000002975, Punjab Branch village Nijja Dehla Kalan, District Sirsa in the account of Navneet Singh. That on 05.08.2020, I borrowed sum of Rs.2 lacs from my relatives and gave it to **Shamsher Singh** in the kind of cash. That the applicant also gave Rs.50,000/- cash in the presence of Baljinder Singh son of Harbans Singh to accused **Shamsher Singh** who gave receipt of Rs.50,000-/ and Rs.2 lacs cash and also gave one cheque no. 900630 of Canara Bank, Branch Sirsa to the applicant so that the applicant has faith on the accused, but the applicant stated to the accused that I have given you money and you should send my son to London and then **Shamsher Singh** and his son stated that **Shamsher Singh** is not feeling well and you please give some money and we will send your son to London when **Shamsher Singh** will recover and we will take your son along us when we will go to London and whatever the expenses will incurred you have to bear those then the accused no. 1 & 2 stated to the applicant that you should prepare your passport and it will be our duty to sent your son to London. That after this, the applicant from his account no. 02991000002975, Punjab and Sing Bank, Village Nijja Dehla Kalan, District Sirsa and withdrew Rs. 1 lac on 01.12.2020 and on 02.03.2021 Rs.50,000/- and on 19.05.2021 Rs.50,000/- and on 07.09.2021 Rs.50,000/- and on 15.11.2021 Rs.50,000/- and on 18.11.2021 Rs.2.5 lacs and on 30.12.2021 Rs.1 lacs and took the abovesaid amount and gave it to accused no. 2 Navneet Singh and gave it in cash at the house of applicant after coming from XD who used to come at night and accused no. 1 used to call that he should give this money to accused no. 2. That in this manner total amount to the tune of Rs.9 lacs have been received by the accused no. 1 & 2. That after this, in the month of December, the applicant many times requested the accused no. 1 & 3 and contacted them that if you cannot send my son to London then please return the amount given by me.*

That the accused no. 1 & 2 were with Baljinder Kaur stated to the applicant that their Hotel is in London and earlier also she has sent many boys to London from Sirsa City because she is partner of that Hotel and she has also some amount which have been given by you. That I will return that amount and I presented the cheque in my account of Punjab and Sind Bank, account no.02991000002975 which on 14.03.2022 the bank gave returned memo that the accused has closed their account in Canara Bank in order to usurp their money. That after this the applicant called 3 of the accused, but their numbers were coming not reachable. That the accused no. 1 gave cheque which was bounced and the cheque bounce memo, statement of the account is annexed with this application. That the accused in connivance with each have cheated the applicant to the tune of Rs.9.5 lacs on the pretext of sending abroad by saying that they will be giving job in their Hotel at London because they stated that the Hotel in London is in the name of all of the three accused and they are partners in that Hotel. That the applicant has now come to know that they have no Hotel in London and they have cheated us by saying that they will be providing job in the Hotel at London and in the same manner they also cheat other people. 3. That the applicant has come to know that earlier also the accused in Mandi Gobindgarh, Ropar in Punjab and also in the various cities of Haryana have cheated many people on the pretext of sending them abroad to the tune of crores of rupees by making forged papers of the ownership of properties. That the FIR against the accused which is registered are as under: 1) FIR No. 53 dated 14.2006, U/s 420, 465, 467,4 68, 120 IPC, Police Station Mandi Gobindgarh, Punjab, 2) FIR No. 70 dated 17.4.2009, U/s 420, 406 IPC, Police Station Gobindgarh, Punjab, 3) FIR No. 231 dated 26.10.2009, U/s 420, 406, 120-B IPC, Police Station Mandi Gobindgarh, Punjab, 4) FIR No. 256 dated 1.12.2010, U/s 420, 406, 467,468, 471 IPC, Police Station Mandi Gobindgarh, Punjab, 5) FIR No. 149 dated 17.8.2017, U/s 420, 406 IPC, Police Station Mandi Gobindgarh, Punjab, 6) FIR No. 241 dated 11.8.2020, U/s 420, 406, IPC, Police Station Civil Line, Sirsa, Haryana on the pretext of sending people abroad. That the accused have

> *formed a gang for sending the people abroad by cheating them by saying that they have Hotel in London and they will provide job in that Hotel and in this way, they cheated people. That in the FIR No. 241 dated 11.08.220 U/s 406, 420 IPC, the abovesaid accused no. 1 & 2 have been declared proclaimed offenders. That today also both of the accused are living with accused no. 3 Balwinder Kaur at Chandigarh. That the FIR be registered against the accused for cheating the applicant and it is requested that the amount of the applicant be got returned from the accused. Sirsa, 31.05.2022. Sd/- H. Singh, applicant Harminder Singh son of Pritam Singh, resident of House No. 603, Nijja Dehla Kalan, District Sirsa, mobile no. 94660-59313."*

4. Learned State counsel, on instructions, has however, not been able to dispute the custody period of the petitioner and stage of trial.

5. I have heard learned counsel for the parties and perused the material placed on record.

6. Petitioner has been in custody for more than nine months having been arrested on 05.01.2024; challan already stands presented and even charges stand framed, hence, there can be no apprehension of the petitioner tampering with evidence as the case of the prosecution essentially hinges on documentary evidence.

7. In the facts and circumstances as enumerated hereinabove, the instant petition is allowed. The petitioner be admitted to bail to the satisfaction of the trial Court/Duty Magistrate concerned. However, it is made clear that anything observed hereinabove shall not be construed to be an expression of opinion on the merits of the case.

8. Needless to say, in case the petitioner misuses the concession of bail granted to him, the State would be at liberty to seek cancellation of the same.

September 20th, 2024 **(MANJARI NEHRU KAUL)**
Puneet **JUDGE**

Whether speaking/reasoned : Yes

Whether reportable : No