



IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-46633-2024
DECIDED ON: 23.09.2024

HARPREET KAURPETITIONER

VERSUS

STATE OF PUNJAB AND ANRRESPONDENTS

CORAM: HON'BLE MR. JUSTICE SANDEEP MOUDGIL

Present: Mr. Nikhil Chopra, Advocate and
Mr. Shubham, Advocate for the petitioner.

Mr. Jaspal Singh Guru, AAG, Punjab.

SANDEEP MOUDGIL, J (ORAL)

1. Relief sought

The jurisdiction of this Court has been invoked under Section 482 BNSS, 2023 for grant of anticipatory bail to the petitioner in FIR No.78, dated 06.04.2024, under Sections 406, 420, 34 IPC and Section 13 of Punjab Travel Professionals (Regulation) Act, 2014, registered at Police Station Tanda, District Hoshiarpur.

2. Prosecution story setup in the present case as per the version in the FIR as under:-

In respect of complaint no. 456 SSP dated 06.03.2024. Sir, zto the SSP Hoshiarpur. Subject:- complaint against (1) Avinash S/o Sati (Mobile No: 82643- (4162) Resident of Village Moha, Police Station Tanda, District Hoshiarpur (2) Harpreet Kaur wife Nitin Mahey (3) Nitin Mahey son unknown resident of village Kathar district Jalandhar with common intention to play fraud with the applicant in order to send the complainant abroad to

America and duped Rs. 13,00,000/- from the applicant. Sir, I Yodhveer Singh son of Nachatar Singh resident of Village Moha, Police Station Tanda, District Hoshiarpur hereby request as follows:- 1) That I am a resident of the above address and engaged in agriculture 2) That the person mentioned above, Avinash son Sati, who is a resident of our village, often meets me in the village and he told me that he has a scheme for America because his very known persons Harpreet Kaur and her husband Nitin Mahey who hails from village Kathar, district Jalandhar has sent many people to America. Because of such things, Avinash, a person from my village, deceived me and told me that for a total of Rs 42,00,000/- he will send me to America through Harpreet Kaur and her husband Nitin Mahey in 13 days. After that I came into Avinash's talk and he arranged for a meeting of me with Harpreet Kaur and her husband Nitin Mahey who run a beauty parlor shop at Kathar. Where I met Harpreet Kaur and her husband Nitin Mahey and they said that they will first receive Rs.13,00,000/- in different installments and the remaining amount of Rs.29,00,000/- will be received after reaching America. Out of which on 20.09.2023 Avinash took me to Harpreet Kaur and her husband Nitin Mahey at village Kathar, where I paid Rs. One lac to Harpreet Kaur and her husband Nitin Mahey and also handed over my passport and Aadhaar card to them. After this on date 22.09.2023 Avinash, Harpreet: Kaur and her husband Nitin Mahey came to me again at my village Moha and I handed over Rs.5,00,000/- in cash to Harpreet Kaur in the presence of my father Nachatar Singh, mother Hardeep Kaur. The said amount of Rs.5,00,000/- was counted and kept by Nitin Mahey. It is worth mentioning here that on that day Harpreet Kaur and her husband Nitin Mahey gave me a ticket to me

from Delhi to Bangkok (Thailand) (copy of which is attached) and asked to travel from Delhi to Bangkok (Thailand) on 25.09.2023 along with 2550 US dollars. 3) That on 25.09.2023 at the behest of Harpreet Kaur and her husband Nitin Mahey I went to Thailand from Delhi, where their person, who told his name Gaurav Sharma received from me US\$ 2550(2,12,000 /- rupees) and at the same time I got a call from Harpreet Kaur and her husband Nitin Mahey that you have a ticket from Thailand to Salvador (Mexico) soon, for which you have to pay Rs. 5,00,000/- as soon as possible. My father Nachatar Singh from account 55101984832 in the account number 50100610774070 given by Harpreet Kaur, on 26.09.2023 transferred amount of Rs. 2,00,000/- and on 30.09.2023 transferred amount of Rs 2,88,000/-. After that ! received a call on WhatsApp from Harpreet Kaur and she said that you need an international credit card in Mexico and after asking me to make a credit card, Harpreet Kaur asked me to come back to India and I came back to India on 09.10.2023 as per Harpreet Kaur's request. 4) That I came to India and made a credit card of Axis Bank and showed it to Harpreet Kaur and after that Harpreet Kaur again asked me to reach Delhi after 1 month and I on the request of Harpreet Kaur on dated 18.12. 2023 reached Delhi and when I asked Harpreet Kaur about the flight after reaching Delhi, she did not give me any clear answer nor gave my dollars. I stayed in Delhi hotel for 3/4 days and I contacted Harpreet Kaur, Nitin Mahey and Avinash etc. and asked about the ticket as promised by them, on the contrary they started threatening me and I came back to my village and when I came back, I demanded my money from Avinash, Harpreet Kaur and her husband Nitin Mahey. When I asked for my money, Harpreet Kaur refunded me

Rs.3.00,000/- at different times through Google Pay and in addition she gave me cheque number 000002 dated 27.02.2024 for Rs.10,00,000/- of H.D.F.C Bank, Adampur, District Jalandhar. I presented the said cheque into my account SBI Branch Tanda but it bounced due to lack of money in the account. 5) That when I asked for money from my village person Avinash, Harpreet Kaur and her husband Nitin Mahey they instead of returning my money abused me and threatened me that if I take any legal action, I will be killed. In these circumstances, it is requested that the above Avinash son of Sati, Harpreet Kaur wife of Nitin Mahey and Nitin Mahey son of not known colluded with each other to send the applicant abroad to America and received Rs. 13,00,000/- from the applicant. In this regard, appropriate legal action should be taken against them and we should be given compensation. Your sincerely SD/- Yodhveer Singh son of Mr. Nachhatar Singh resident of village Moha, police station Tanda, district, Hoshiarpur, mobile no.84377-57161.”

3. **Contention**

On behalf of the petitioner

Learned counsel for the petitioner contends that the petitioner was named by her husband and nominated in the instant FIR merely for the reason that part payment out of the alleged transacted amount to the tune of Rs.4,88,000/- was credited to her account. It is further urged on behalf of the petitioner before this Court that she has already paid back Rs.3 lacs out of the aforesaid amount and is ready and willing to make good of the balance amount of Rs.1,88,000/- in equal instalments as per schedule fixed before this Court.

On behalf of the State

Learned State Counsel appearing on advance notice, seeks dismissal of the instant petition vehemently stressing upon the fact that the petitioner was equally responsible in executing the act of illegal immigration while charging a huge amount out of which Rs.4,88,000/- was credited to her account alone. He could not controvert the fact that the husband of the petitioner has already surrendered and is in police custody. There is also no denial on behalf of the State to the effect that the petitioner has returned Rs.3 lacs to the complainant out of the total amount of Rs.4,88,000/-.

4. Analysis

Be that as it may, having given a considerable thought particularly the fact that the petitioner has already returned a substantial amount out of the credited amount to her account and is ready and willing to pay the balance amount to the complainant. It is also to be taken note of the fact that the husband of the petitioner has surrendered and is in police custody, therefore, her custodial interrogation cannot be deemed to be necessary at this stage.

5. Decision

In the light of above, the petitioner is directed to be released on anticipatory bail subject to her joining investigation with the Investigating Officer concerned within a period of one week from today, on furnishing of personal/surety bonds to his satisfaction. The petitioner shall also abide by the terms and conditions as envisaged under Section 482(2) of BNSS, which are reproduced below:-

‘When the High Court or the Court of Session makes a direction under sub-section (1), it may include such conditions

in such directions in the light of the facts of the particular case, as it may think fit, including-

(i) a condition that the person shall make himself available for interrogation by a police officer as and when required;

(ii) a condition that the person shall not, directly or indirectly, make any inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade him from disclosing such facts to the Court or to any police officer;

(iii) a condition that the person shall not leave India without the previous permission of the Court;

(iv) such other condition as may be imposed under sub-section (3) of section 480, as if the bail were granted under that section.'

It is made clear that the concession of anticipatory bail shall be operative only in case, at the time of joining, the petitioner pays the balance amount of Rs.1,88,000/- to the complainant through investigating officer as has been undertaken before this Court.

However, it is also made clear that in case the petitioner does not comply with the aforesaid direction within a period of one week from today, the order passed by this Court today shall automatically stands cancelled.

In the aforesaid terms, the present petition stands allowed.

(SANDEEP MOUDGIL)
JUDGE

23.09.2024

Poonam Negi

Whether speaking/reasoned

Yes/No

Whether reportable

Yes/No