IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

104 **CRM-M-49942-2024**
DATE OF DECISION: 14.10.2024

HAPREET KAUR **...PETITIONER**

Versus

STATE OF PUNJAB **... RESPONDENT**

CORAM: HON'BLE MR. JUSTICE SANDEEP MOUDGIL

Present: Mr. A.K. Walia, Advocate for the petitioner(s).
Mr. KP Dhaliwal, Advocate for the complainant.
Mr. Jaspal Singh Guru, AAG, Punjab.

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SANDEEP MOUDGIL, J (ORAL)

1. **Relief Sought**

This petition has been filed 438 Cr.P.C. for grant of anticipatory bail to the Petitioner in case F.I.R. No. 87 dated 12.06.2024 under Section 420,120-B of I.P.C. and Section 13 of Punjab Travel Professionals (Regulation) Act, 2014 registered at Police Station Sadar Dhuri, District Sangrur.

2. Prosecution story, set up in the present case as per the version in the FIR read as under :-

> *'Copy of order No. PGD ID No. 270980 dated 28.11.2023 regarding application of Darshan Singh S/o Nazar Singh, R/o Ghanauri Kalan, PS SadarDhuri, against Pavittar Singh, Gurpreet Singh sons of Surjit Singh, and Harpreet Kaur wife of Pavittar Singh, resident of Ghanauri Kalan, PS Sadar Dhuri are registration of case under Section 420, 120-B IPC, Section 13 of Punjab Travel Professional Act 2014, received through Daak. Contents of the same are that:- "To, Worthy SSP Sangrur.*

Subject: For registration of Criminal case of cheating against Pavittar Singh son of Surjit Singh, Harpreet Kaur wife of Pavittar Singh, both residents of village Ghanauri Kalan, Mobile No. 98724-92300, Gurpreet Singh and Swaran Singh sons of Surjit Singh residents of village Ghanauri Kalan now resident of Canada and Kulwinder Singh son of not known. The application is as under:-

(1) That I am resident of Ghanaur Kalan, Tehsil Dhuri District Sangrur and is peace loving citizen. I am two sons namely Tarandeep Singh and Gagandeep Singh. My son Tarandeep Singh and above said Pavittar Singh both are classmates and they have good friendship.

(2) That my son Gagandeep Singh earlier was working at Dubai during year 2010 to 2019.

(3) That above said Pavittar Singh' two brothers Gurpreet Singh and Swaran Singh are residing in Canada.

(4) That in the year 2018 above said Pavittar Singh told my son Tarandeep Singh that my brothers are residing in Canada and they are engaged in transport work. We will send your brother Gagandeep Singh to Canada.

(5) That when my son Tarandeep Singh discussed it with me and I talked with my son Gagandeep Singh. Pavittar Singh told us that for sending Gagandeep Singh to Canada, it would require about rupees 23-24 lacs.

(6) That in the year 2019 above said Pavittar Singh received the papers of my son Gagandeep Singh and received Rs. 4 lacs in cash from me, which I had paid to Pavittar Singh at his residence at Village Ghanauri Kalan in the presence of my son Tarandeep Singh. After that Pavittar Singh had given us a conformation letter. Due to which we became confident that Pavittar Singh and his brothers have initiated correct process for sending my son abroad. On 12.01.2019 my son Gagandeep Singh transferred Rs. 19,000/- and further on the same day Rs. 49,000/- from Dubai into the account of Pavittar Singh.

Thereafter, aforesaid Pavittar Singh received Rs. 3,54,000/- from me on 08.12.2019, which I got transferred from my account No. 4707101001808 Canara Bank, Dhuri into the account of aforesaid Pavittar Singh. In the first week of April, Pavittar Singh received Rs. 1,50,000/- in cash from me on the pretext of Gagandeep Singh' biometrics, which I paid to Pavittar Singh at his house in the presence of my son Tarandeep Singh. In the year 2021, there was marriage of Swaran Singh and Pavittar Singh had invited all our family in the marriage ceremony, where above said Gurpreet Singh had also met us and then all three brothers had talked with us and assured us that you may not worry and as Pavittar Singh has agreed with you, we will call Gagandeep Singh to Canada in the same manner. Then on 09.04.2021, from the account of my son Tarandeep Singh an amount of Rs. 50,000/- was transferred into the account of Harpreet Kaur wife of Pavittar Singh. On 10.04.2021, from the account of Tarandeep Singh further a sum of Rs. 50,000/- was transferred into the account of Harpreet Kaur wife of Pavittar Singh. On 12.04.2021, Rs. 3,00,000/- were transferred in the account of firm of Pavittar Singh. On 16.04.2021, Rs. 50,000/- were transferred in the account of Harpreet Kaur. On 18.04.2021, Rs. 50,000/- were transferred into the account of Harpreet Kaur. On 19.04.2021, an amount of Rs. 1,00,000/- and again on 19.04.2021, a sum of Rs. 50,000/- and again on 19.04.2021 further a sum of Rs. 50,000/- and again on 19.04.2021 a sum of Rs. 40,000/- and again on 19.04.2021 a sum of Rs. 50,000/- were transferred into the account of Harpreet Kaur. Then on 20.04.2021 Rs. 50,000/- was transferred into the account of Harpreet Kaur. Then on 13.08.2021, my son Tarandeep Singh got transferred an amount of Rs. 1,50,000/- from a friend into the account of firm of Pavittar Singh through Phone-pay vide five entries and on 23.08.2021, I transferred a sum of Rs. 4,00,000/- into account of firm of Pavittar Singh. On 17.11.2021, an amount of Rs. 1,00,000/- was transferred into the *account of firm of Pavittar Singh. Then on 04.10.2022, a sum of Rs. 3,50,023/- was transferred from the account of my Massar - Jaggar Singh son of Amar Singh, which Pavittar Singh got transferred into the account of a person disclosed as Kulwinder Singh. In this manner, Pavittar Singh in conspiracy with his brother and wife received Rs. 28,12,000/- from me. Pavittar Singh in order to send my son abroad, had given documents to us at different times and kept on giving dates for biometrics. But till the beginning of 2023, biometrics of my son could not be done. Due to which we got suspicion against Pavittar Singh and then I told Pavittar Singh either to send my son Canada or to return my money. At first instance, Pavittar Singh started putting of the matter. Then in the month of August, 2023, I sternly requested Pavittar Singh and then Pavittar Singh agreed to returned the amount and he handed over a cheque No. 000017 dated 08.08.2023 from his account No. 50100583798211 of HDFC Bank Dhuri in the name of my son Gagandeep Singh and signed the cheque and told me that you may present this cheque after 06.11.2023 and may withdraw the amount.*

(7) That I, on the assurance of Pavittar Singh presented the aforesaid cheque in the account of my son at HDFC Bank Dhuri on 06.11.2023 but bank returned the cheque to me along with memo on 06.11.2023 as there was no money in the account of Pavittar Singh. Then I kept on requesting Pavittar Singh that there is no amount in your account and cheque has been bounced. At first instance Pavittar Singh assured me that he will return my money but now after some days back Pavittar Singh has refused to return my money and stated that we wanted to cheat, we have done so and you cannot do anything against us. In this manner Pavittar Singh, his brothers Gurpreet Singh, Swaran Singh and his wife Harpreet Kaur and one Kulwinder Singh in conspiracy with each other have cheated me and received more than Rs. 28,12,000/- from me and did not send my son abroad. Therefore, it is requested to the present application

that appropriate action may kindly be taken against Pavittar Singh, Harpreet Singh, Gurpreet Singh, Swaran Singh and Kulwinder Singh. After registration of case, appropriate punishment be got awarded and my money be got recovered to me. Dated 28.11.2023-Submitted by: Sd/- Darshan Singh son of Nazar Singh'

3. **<u>Contentions</u>**

<u>On behalf of the petitioner</u>

Learned counsel for the petitioner has argued that the petitioner has been falsely implicated in this case and the only allegation against her is qua transfer of amount of Rs. 5,90 lakhs to her bank account and on that basis she has been dragged in the instant FIR, whereas it is her husband who is the main accused-Pavittar Singh who had taken whole amount for the purpose of facilitating the visa for Gagandeep Singh on pretext of work permit to which the petitioner has played no role in any manner.

<u>On behalf of the State</u>

Learned State Counsel appearing on advance notice on instructions from ASI Jasvir Singh vehemently opposes the prayer for grant of concession of anticipatory bail on the ground that an amount of Rs. 5.90 lakhs was transferred in the account of the petitioner by the complainant and hence, recovery of that amount is being sought, therefore, prays for dismissal of the present petition.

<u>On behalf of the Complainant</u>

Learned counsel for the complainant submits that a fraud has been committed upon him by Pavittar Singh and on his asking, he transferred an amount of Rs. 5,90 lakhs to the account of the petitioner who is his wife.

4. **Analysis**

Be that as it may, after given a thoughtful consideration to the submissions as made, by the counsel for both the parties that the petitioner is wife of the main accused who is already in custody, therefore, she cannot be held to be liable for the offence committed under Sections 420,120-B of I.P.C. at least at this stage. Hence, this Court finds no reason to deny the petitioner the concession of anticipatory bail, wherein the petitioner has bona fide intentions and is willing to join the investigation and cooperate for furtherance of the same so that the final report can be submitted by the Investigating Agency within the stipulated time period.

5. **Decision**

Hence, in view of the admitted set of circumstances before this Court, the petitioner is hereby directed to be released on anticipatory bail subject to her joining investigation and reporting to the Investigating Officer concerned within a period of two weeks from today, on furnishing of personal/surety bonds to the satisfaction of Arresting/Investigating Officer and at that time will bring a demand draft amounting to Rs. 5.90 lakhs in favour of the complainant and will hand over the said demand draft to the complainant. The petitioner shall further also abide by the terms and conditions as envisaged under Section 438(2) of Cr.P.C as reproduced below :-

(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 437, as if the bail were granted under that section.

However, it is made clear that in case the petitioner does not comply with the aforesaid direction of joining the investigation within two weeks, the order passed by this Court today shall automatically stand cancelled.

The petition in the aforesaid terms stand allowed.

(SANDEEP MOUDGIL)
JUDGE

14.10.2024
anuradha

Whether speaking/reasoned *Yes/No*
Whether reportable *Yes/No*