



IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-50247-2024
DECIDED ON: 18.10.2024

PAVITTAR SINGH
.....PETITIONER

VERSUS

STATE OF PUNJAB
.....RESPONDENT

CORAM: HON'BLE MR. JUSTICE SANDEEP MOUDGIL

Present: Mr. Amit Kumar Walia, Advocate
for the petitioner.

Mr. Jasjit Singh Rattu, DAG, Punjab.

SANDEEP MOUDGIL, J (ORAL)

1. Relief sought

The jurisdiction of this Court has been invoked under Section 439 Cr.P.C. for grant of regular bail to the petitioner in FIR No.87, dated 12.06.2024, under Sections 420, 120-B IPC and Section 13 of Punjab Travel Professionals (Regulation) Act, 2014, registered at Police Station Sadar Dhuri, District Sangrur.

2. Prosecution story setup in the present case as per the version in the FIR 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 Sadar Dhuri, 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

(2) classmates and they have good friendship. 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 1, 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, resident of Village Ghanaur Kalan, Tehsil Dhuri, District Sangrur. Mobile 98762-78015. Upon which worthy SSP vide his office order PGD ID No. 270980 directed DSP, Dhuri to verify and report as per fact and law. Sd/- Senior Superintended of Police dated 04.12.2023.”

3. **Contentions**

On behalf of the petitioner

Learned counsel for the petitioner contends that the petitioner has been falsely implicated in the present case

as per the prosecution story, on account of allurement given by the petitioner to son of the complainant to send him abroad i.e. Canada for which Rs.24 lacs was paid to the petitioner which he actually admits and on that account in an attempt to repay the said amount after his failure to meet the compromise, a cheque was issued by him which was also not honoured.

On behalf of the State

On the other hand, learned State counsel has produced the custody certificate of the petitioner today in Court, which is taken on record. He seeks dismissal of the instant petition asserting that the investigation is not yet completed as petitioner has not joined till date.

On behalf of the complainant

Mr. Kirat Pal Dhaliwal, Advocate has put in appearance on behalf of the complainant and has filed Vakalatnama, which is taken on record. He argues on the same lines as has been averred by learned State counsel.

4. Analysis

The Apex Court in case “*Gudikanti Narasimhulu vs. Public Prosecutor, High Court of A.P.*”; (1978) 1 SCC 240, has already observed that deprivation of freedom by refusal of bail is not for punitive purposes but for the bifocal interests of justice. It has further been observed that it is rational to enquire into the antecedents of the man who is applying for bail to find out whether he has a bad record, particularly a record which suggests that he is likely to commit serious offences while on bail.

More so, investigation is still going on in the present case. It is settled proposition of law that power exercisable under Section 438 Cr.P.C., is somewhat extraordinary in character and it is to be exercised in

exceptional cases. The Supreme Court in “*State vs. Anil Sharma*”, (1997) 7 SCC 187, held as under:-

“We find force in the submission of the CBI that custodial interrogation is qualitatively more elicitation oriented than questioning a suspect who is well ensconded with a favourable order under Section 438 of the code. In a case like this effective interrogation of a suspected person is of tremendous advantage in disinterring many useful informations and also material which would have been concealed. Success in such interrogation would elude if the suspected person knows that he is well protected and insulated by a pre-arrest bail order during the time he is interrogated. Very often interrogation in such a condition would reduce to a mere ritual. The argument that the custodial interrogation is fraught with the danger of the person being subjected to third-degree methods needs not be countenanced, for, such an argument can be advanced by all accused in all criminal cases. The Court has to presume that responsible police officers would conduct themselves in a responsible manner and that those entrusted with the task of disinterring offences would not conduct themselves as offenders.”

5. Decision

In the light of the fact that the investigation is not yet complete, the present petition deserves to be dismissed.

Ordered accordingly.

18.10.2024

Poonam Negi

(SANDEEP MOUDGIL)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes/No
Yes/No