



IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-50695-2024
DECIDED ON: 16.10.2024

PUSHPINDER KAURPETITIONER

VERSUS

STATE OF PUNJABRESPONDENT

CORAM: HON'BLE MR. JUSTICE SANDEEP MOUDGIL

Present: Mr. Parminder Singh Sekhon, 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 438 Cr.P.C. for grant of anticipatory bail to the petitioner in FIR No.11, dated 05.02.2024, under Section 420 IPC, registered at Police Station Qadian, Police District Batala, District Gurdaspur.

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

Complaint number PGD-5344 dated 28.10.2023. To, The SSP, Police District, Batala. Subject: - Regarding causing cheating for a tune of Rs. 15 lacs on the pretext of sending abroad. Sir, it is humbly submitted that I Raj Kumar son of Mulakh Raj am resident of Partap Nagar, House No. 552, Iadian, Tehsil Batala, District Gurdaspur. That I wanted to send my son namely Kirandeep to abroad (USA) Regarding which one of our known person namely Kanwaljit Singh son of Joginder Singh resident of

Hindu Mohalla Qadian, Tehsil Batala, District Gurdaspur introduced me with one woman namely Pushpinder Kaur wife of Gurdeep Singh resident of Ward No. 13, Boha, Mansa now resident of Sector-99, A Sign Chadha Group Flats, Flat No. 202, Mohali and at present she is residing in flat No. 502, B Block, Fifth Floor of the same flats. During that meeting the said Pushpinder Kaur told me that she is doing the work regarding visa files of America, Australia, Canada etc. I told her that I want to send my son to America. Regarding which Pushpinder Kaur told me that total expenses for America visa will stand at Rs. 30 lacs and I will get issue the visa for America within 3 months. I got agreed to give her Rs. 30 lacs. Thereafter she told me that out of the said money, you have to pay some money as advance so that we may start our process. In this manner the said woman has taken around Rs. 15 lacs as cash from us at several intervals and in the form of several small installments and used to make excuses and did not send my son Kirandeep to USA. I made several rounds to the said woman in Chandigarh but she did not send my son abroad. I got fed up and asked her to return my money but the said woman used to make excuse that you file is under processing and you will receive your visa soon. In this manner approximately 2 ½ years have been passed. I had taken this money as credit from my friends and relatives. They also started demanding back their money from me. Thereafter I was also fed up and started demanding my money back from said Pushpinder Kaur. On which she started making excuses and told that do whatever you want to do, you cannot cause any harm to me. But despite that I made requests to her to get my money back, but she has not returned a single penny to me. The said woman is neither returning my money nor

did she send my son abroad. I came to know from some of my relatives that the said woman used to cause cheating on the pretext of sending abroad and also used to give threats for not returning money. Cases of cheating has come forward in Mohali against the said woman. That by taking strict legal action against said woman, a case shall kindly be registered against her and justice shall kindly be served to me by getting return my money back to me. I am also attaching Aadhar card of said woman along with this complaint. Therefore strict legal action shall kindly be taken said woman immediately so that she may not be able to implicate innocent peoples in her tactics. Dated 25.10.2023. Yours Sincerely SD/- Raj Kumar son of Mulakh Raj resident of Partap Nagar, House NO. 552, Qadian, Tehsil Batala, District Gurdaspur. Mob 8264915161.”

3. **Contention**

On behalf of the petitioner

Learned counsel for the petitioner contends that the petitioner had received only Rs.40,000/- in her account out of total committed amount of Rs.15 lacs to be paid by the complainant for sending his son to USA. Mr. Sekhon, learned counsel for the petitioner would vehemently contend supported by an affidavit of the petitioner that in lieu of that promise, a Visa was facilitated and complainant's son is presently at California in USA and, therefore, offence under Section 420 IPC would not *prima facie* be made out against him.

On behalf of the State/complainant

Learned State Counsel appearing on advance notice assisted by Mr. Dinesh Mahajan, Advocate, who puts in appearance on behalf of the

complainant and has filed Power of Attorney, which is taken on record, would inform the Court that as far as amount of Rs.40,000/- transacted into the account of the petitioner is concerned, the same is correct but the said amount is yet to be recovered. It is also stated by learned State counsel that the petitioner was declared proclaimed offender in another FIR bearing No.148, dated 02.10.2018, under Section 420, 465, 468 IPC, registered at Police Station Badhni Kalan, District Moga.

4. **Analysis**

Be that as it may, having given considerable thought especially in the light of affidavit filed today in Court by the petitioner which is also admitted on behalf of the complainant that his son is at California, USA, the petitioner may be right in stopping the payment against that cheque which was forced to pay back to the complainant under the fear of prosecution in the instant FIR though she has been declared proclaimed offender in another FIR but the law will take its own course and the petitioner would surrender before the trial Court if she has been declared proclaimed offender in the same.

Keeping in view the fact that complainant's son has already been sent to USA after facilitation of Visa by the petitioner on which account she received the alleged payment of Rs.40,000/-, no custodial interrogation of the petitioner at this stage is considered to be required.

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 438(2) of Cr.P.C which are 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 a period of one week, the order passed by this Court today shall automatically stands cancelled.

In the aforesaid terms, the present petition stands allowed.

16.10.2024

Poonam Negi

**(SANDEEP MOUDGIL)
JUDGE**

*Whether speaking/reasoned
Whether reportable*

*Yes/No
Yes/No*