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**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

CRM-M-50845-2024

Date of Decision: October 09, 2024

BALRAJ SINGH**....Petitioner(s)****VERSUS****STATE OF PUNJAB****....Respondent(s)****CORAM: HON'BLE MR. JUSTICE SANDEEP MOUDGIL**

Present: Mr. Lajwant Singh Virk, Advocate for the petitioner.

Mr. Nikhil Chopra, Advocate for the complainant.

Mr. Malkiat Singh, DAG, Punjab.

SANDEEP MOUDGIL, J.(ORAL)**1. Relief Sought**

The jurisdiction of this Court under Section 482 Bhartiya Nagrik Suraksha Sanhita, 2023, has been invoked seeking the concession for the grant of anticipatory bail to the petitioner in FIR No.0079 dated 30.06.2024 under Sections 406, 420 of IPC (Sections 465, 468, 471 of IPC added later on vide Rapat No.28 dated 12.08.2024) and Section 13 of Punjab Travel Professionals (Regulation) Act, 2014, registered at Police Station Nakodar Sadar District Jalandhar.

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

'In reference to the Application No. 180-PTOO, dated 22.03.2024, To The SSP, Jalandhar Rural. Subject: Application for taking legal action against agent Balraj Singh,



resident of Village Talwandi Bharon, District Jalandhar for committing fraud for Rs. 48,40,000/- on the pretext of send abroad Canada. 98153- 29548, 98153-37033. Sir, It is requested that I am Saurav Gautam son of Rajesh Kumar, resident of Village Chuhan, tehsil Nakodar, District Jalandhar. Me and Agent Balraj Singh Village Talwandi Bharon, District Jalandhar talked to go to Canada in 2018 for Rs 45 Lakhs, his office is KP Tour and Traveler near Jalandhar Bus Stand and now in the name of Amrit Overseas in Garha Road, Jalandhar. I sat at Agent Balraj's house and talked about going to Canada. Then I kept in touch with him and kept asking him about my Canada VISA process. After about 3 years, when he did not get my work permit visa for Canada, the agent said that we will get your first US VISA and then we will get you Canada VISA. Then the agent gave me some VISA recording documents at the US Embassy in Mumbai. Some of the documents were forged, which I found out after appearing at the embassy. On 19.11.2022, I received a call from agent Balraj that your US visa has arrived and demanded money from me and I paid Rs.3,00,000/- on 20.11.2021, Rs. 10,00,000/- on 23.11.2021, then Rs.7,00,000/-, Rs.2,00,000/- on 29.11.2021, then Rs.2,40,000/- on 20.03.2024, then Rs.2,00,000/-, then Rs.2,40,000/- on 20.03.2024, then Rs.2,00,000/- to Agent Balraj Singh's Account No. 2001000102067056, Gautam Agriculture's Account No. 50200037365117, transferred all the said amount to the account numbers of Amrit Overseas through bank. I have proof of that. Apart from this, Rs.5,00,000/- cash has been taken by Balraj Singh's younger brother Sukhraj Singh, whose video I have with me. Further, Sukhraj Singh took Rs.4,00,000/- to HDFC Bank. Then he took Rs.3,00,000/- from Dipa's shop, after which he gave Rs.4,00,000/- to the house of Patwari Jasbir Singh of the same village Talwandi Bharon



and dated 30th June, 2023, Rs.2,00,000/- was brought to the house by my father Rajesh Kumar, the witness and evidence of which is in my possession Agent Balraj sent me to Turkey, then to Sharjah and then to Mexico where my accommodation, food and hotel expenses came to a total of 1800 US Dollars, all of which was my own expense. After coming to India from abroad, the agent sent me to Mumbai 3 times to get the documents done, the total cost of which was Rs 2,50,000/-. A total of Rs.48,40,000/- has been given to the agent, out of which I have been paying interest of Rs.30,00,000/- for almost two and a half years. Therefore, it is requested that to take appropriate legal action against agent Balraj and his brother Sukhraj and refund me Rs.48,40,000/ with interest. I presently be highly obliged. Thanking You, Sd/- Sourav Gautam, Applicant Sourav Gautam son of Rajesh Kumar, resident of Village Chuhar, Tehsil Nakodar, District Jalandhar Mobile No. 7973324238. The said application was received by order of Hon'ble Senior Superintendent of Police Jalandhar Rural Shri Kulwinder Singh PPS Deputy Superintendent of Police, Sub Division Nakodar, who wrote in the mutual conclusion report that "from the investigation conducted by me so far, the statements obtained and the documents submitted, I have come to the conclusion that the applicant Saurav Gautam son of Rajesh Kumar resident of village Chuhar police station Sadar Nakodar who wanted to go abroad, regarding which the applicant Saurav Gautam spoke to Balraj Singh son of Satnam Singh, resident of Talwandi Bharon, presently resident of Mota Singh Nagar, Jalandhar, who has set up his office in the name of KP Tour & Traveller, near Jalandhar Bus Stand and now Amrit Overseas in Garha Road, Jalandhar and Balraj Singh told the applicant Sourav Gautam that he would get him a direct flight to New York by issuing him a valid overseas US VISA as an employee



of a shipping company and in this regard, Balraj Singh had given some documents, including a CDC certificate, which was said to be issued by the Government of India, and as per the agreement made by the applicant, at different times Balraj Singh and his brother Sukhraj Singh had been to the bank and a total of Rs.48,40,000/- was found to be paid in cash. In this regard, the statements of the concerned banks and the statements of the concerned persons were recorded, according to the agreement made by the respondent party Balraj Singh son of Satnam Singh, resident of Talwandi Bharon, presently resident of Mota Singh. Nagar, Jalandhar, with the applicant Sourav Gautam. By not getting him a direct flight to New York, he was sent to Mexico via various countries. Where he illegally and illegally crossed the border and asked to enter the United States, but because this act was illegal, the applicant returned to Mexico, after which, the applicant first himself and later along with the concerned persons of the area, talked to Balraj Singh, so Balraj Singh had admitted in front of the concerned persons of the area that he would send the applicant to America in a legitimate manner within three months, if he is not able to send the applicant abroad to America within three months, he will return the money taken from the applicant. After this, Balraj Singh again gave more documents to the applicant and made him take a flight from Delhi airport. However, the American immigration officials at the Delhi airport stopped him from boarding the flight saying that the documents and the CDC certificate prepared by the shipping company on the basis of which his VISA was issued, all those documents are forged in the name of Government of India. The above CDC document is with him, which he has produced, after talking to Balraj Singh again, he again demanded to return the money to the accused persons. In this regard, the statements of the concerned persons are attached,



but even after more than a year has passed since that conversation, neither Balraj Singh has sent the applicant to Arnerica in the proper way as promised and neither have returned the money. In this regard, the undersigned requested Balraj Singh and his brother Sukhraj Singh to present their side, on which Sukhraj Singh came to office and presented his side, but Balraj Singh once personally came to the office and met the undersigned and asked for a few days' time to settle the matter, but after that neither Balraj Singh appeared despite being summoned nor did he have any license issued by the Punjab or the Government of India, according to which he could send persons to foreign countries. presented, but the undersigned did not produce any documentary evidence regarding the preparation of fake documents or not sending the applicant abroad for sending his statement through e-mail at the office of the undersigned. Therefore, to send the applicant abroad from Balraj Singh son of Satnam Singh, resident of Talwandi Bharon, presently resident of Mota Singh Nagar, Jalandhar, by preparing fake documents at different times and not having a direct flight to the United States as per the agreement, by illegally sending different flights to Mexico, from there they asked to cross the border of Mexico illegally, but the applicant returned from Mexico as this work was illegal. A case has to be registered against Balraj Singh along with his brother Sukhraj Singh sons of Satnam Singh resident of Talwandi Bharon police station Sadar Nakodar and investigation should be carried out. Recommendation: If accepted then Balraj Singh son of Satnam Singh resident of Talwandi Bharon, presently resident of the accused persons. In this regard, the statements of the concerned persons are attached, but even after more than a year has passed since that conversation, neither Balraj Singh has sent the applicant to Arnerica in the proper way as promised and neither have



returned the money. In this regard, the undersigned requested Balraj Singh and his brother Sukhraj Singh to present their side, on which Sukhraj Singh came to office and presented his side, but Balraj Singh once personally came to the office and met the undersigned and asked for a few days' time to settle the matter, but after that neither Balraj Singh appeared despite being summoned nor did he have any license issued by the Punjab or the Government of India, according to which he could send persons to foreign countries. presented, but the undersigned did not produce any documentary evidence regarding the preparation of fake documents or not sending the applicant abroad for sending his statement through e-mail at the office of the undersigned. Therefore, to send the applicant abroad from Balraj Singh son of Satnam Singh, resident of Talwandi Bharon, presently resident of Mota Singh Nagar, Jalandhar, by preparing fake documents at different times and not having a direct flight to the United States as per the agreement, by illegally sending different flights to Mexico, from there they asked to cross the border of Mexico illegally, but the applicant returned from Mexico as this work was illegal. A case has to be registered against Balraj Singh along with his brother Sukhraj Singh sons of Satnam Singh resident of Talwandi Bharon police station Sadar Nakodar and investigation should be carried out. Recommendation: If accepted then Balraj Singh son of Satnam Singh resident of Talwandi Bharon, presently resident of a case has been registered and investigated at Police Station Sadar Nakodar. From the report sent by me from the Deputy Superintendent of Police, Sub Division Nakodar and hearing the side of the applicant, I have come to the conclusion that the applicant Saurav Gautam has transferred Rs.26 lakh 40 thousand to his bank account and Sukhraj Singh has taken Rs 12 lakh manually from the applicant. Balraj Singh sent the applicant



Sourav Gautam to Sharjah in different files, then to Turkey where he stayed for 05 days and then to Mexico where he stayed there for about 05 days, where his accommodation, food and hotel expenses came to about 1800 US Dollars (about 1,50,000/- in Indian currency), all the expenses were incurred by him and later agent Balraj Singh talked to the applicant Sourav Gautam over the phone about sending Doki to America. Then the applicant told him that when he was issued a direct visa to the US, he refused to go to the US by donkey. Then Balraj Singh told the applicant that he can send him to America through Donkey, if he has to go through Donkey then go, but cannot send him directly to America. Due to which the applicant Saurav Gautam came back to India from Mexico. Documents attached with the investigation report CDC, issued on the basis of Government of India etc. till verified, until then, under Sections 465, 468, 471, 120-B of IPC should not be imposed, because the next action has to be taken only after the verification of the documents. Balraj Singh resident of Talwandi Bhara, presently resident of Mota Singh Nagar Jalandhar and Sukhraj Singh sons of Satnam Singh resident of Talwandi Bhara Police Station Sadar Nakodar neither sent the applicant Saurav Gautam abroad to America nor returned his passport and money. A report has been obtained from the office of Hon'ble Deputy Commissioner Jalandhar through letter No. 98-5P dated 21.06.2024 by the undersigned regarding the travel agency license of Balraj Singh and Sukhraj Singh, who have stated in their letter No. 1008MC-9/MA-2, dated 24.06.2024 that Balraj Singh son of Satnam Singh, resident of Talwandi Bhara District Jalandhar, to work in Travel Agency/Consultancy/Ticketing Agent/Coaching Institution category License No. 65/MC-1/MA dated 18.03.2016 valid upto 17.03.2021 was issued travel agent license in the name of



M/s Kings Punjab Travels & Education, 1st Floor Sahota Complex, Opp Bus Stand Jalandhar Pujab. This license has been canceled through the order dated 10.03.2023 of Hon'ble Deputy Commissioner Jalandhar. Further (2) Sukhraj Singh son of Shri Satnam Singh Basi Village Talwandi Bharon Nakodar District Jalandhar has been issued by this office License No. 1405/MC- 6/MA dated 03.08.2022 valid upto 02.08.2027 through M A travel agent's license was issued in the name of /s KP Travels located at Shop no 211-213, 1st floor sahota Complex Opposite Residency Hotel PS Division No 6 Jalandhar Punjab. This license has been canceled through the order dated 10.03.2023 of Hon'ble Deputy Commissioner Jalandhar. Original copy of letter No. 1008 MC-9/MA-2 dated 24.06 2024 is enclosed for perusal. Thus, Balraj Singh son of Satnam Singh resident of Talwandi Bharon presently resident of Mota Singh Nagar Jalandhar and Sukhraj Singh son of Satnam Singh resident of Talwandi Bharon Police Station Sadar Nakodar District Jalandhar misled the applicant Sourav Gautam despite the cancellation of their travel agency license. It is revealed that he is cheating by pretending to send him abroad to America. If accepted then under Sections 406, 420 of IPC and 13 of Punjab Travel Professional Regulation Act against Balraj Singh son of Satnam Singh resident of Talwandi Bharon presently resident of Mota Singh Nagar Jalandhar and Sukhraj Singh son of Satnam Singh resident of Talwandi Bharon Police Station Sadar Nakodar District Jalandhar 2014, it is recommended to register a case at Police Station Sadar Nakodar and initiate investigation. Sd/- Superintendent of Police, Special Branch, Jalandhar Rural 29/6/24, on which Hon'ble Senior Police Captain Jalandhar Rural wrote that, SHO Sadar Nakodar to register the case. DSP Nakodar to investigate. Today Police Station: Abovesaid application alongwith enquiry report has



been received through post, then FIR has been registered in under Sections 406, 420 of IPC and Section 13 of Punjab Travel Professional Regulation Act, 2012 (Amended in the Year 2014) and original application alongwith enquiry report alongwith computerized FIR is being send to the office of DSP, Sub Division Nakodar for further investigation. Complete Rapat No. 25, dated 30.06.2024 At 04:20 PM.'

3. Contentions

On behalf of the petitioner

Learned counsel for the petitioner has admitted the fact that some amount was received by him for the purpose of facilitating visa to the complainant and on that account he has received in total Rs.26,50,000/- in his bank account and has handed over the demand draft qua that amount received to the learned counsel for the complainant today present in the Court. As far as the cash transaction alleged in the instant FIR is concerned, he would submit that the same was handed over, if any, to the brother of the petitioner and not to the present petitioner for which he cannot be held liable.

On behalf of the State

Learned State Counsel appearing on advance notice, in the light of above, handing over of Rs.26,50,000/- by way of demand draft to the learned counsel for the complainant does not pray for custodial interrogation of the petitioner at this stage.

On behalf of the complainant

Learned counsel for the complainant also does not oppose the prayer for concession of anticipatory bail to the petitioner, however, he



would submit that the acceptance of this amount on behalf of the complainant which is part payment out of total 48 lakhs as alleged in the FIR is accepted only for the purpose of not opposing the present petition.

4. **Analysis**

In the light of aforesaid facts, this Court does not find any reason to deny the concession of anticipatory bail to the present petitioner.

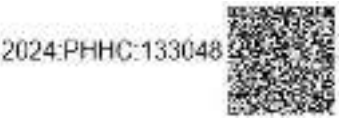
5. **Decision**

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 his joining investigation and reporting to the Investigating Officer concerned within a period of one week from today, upon furnishing of personal/surety bonds to the satisfaction of Arresting/Investigating Officer. The petitioner shall also abide by the terms and conditions as envisaged under Section 482(2) of BNSS of 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.'

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

The petition in the aforesaid terms stand allowed.

(SANDEEP MOUDGIL)
JUDGE

09.10.2024
Sangeeta

Whether reasoned/speaking: Yes/No
Whether reportable: Yes/No