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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

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CRM-M-54933-2023
Date of decision : 27.02.2024

Pooja and another Petitioners

versus

State of Haryana Respondent

CORAM : HON'BLE MR. JUSTICE PANKAJ JAIN

Present: Mr. Sandeep Lather, Advocate
for the petitioners.

Mr. Gaurav Bansal, DAG, Haryana.

PANKAJ JAIN, J. (Oral)

1. While issuing notice of motion on 03.11.2023, following order was passed:-

“Apprehending their arrest in FIR No.274, dated 13.09.2023, registered for offences punishable under Sections 406, 420, 506 of the Indian Penal Code, 1860 and Section 10 and 24 of Immigration Act, 1983 at Police Station City Pehowa, District Kurukshetra, the petitioners have preferred this petition under Section 438 Cr.P.C. seeking pre-arrest bail.

As per the allegations levelled in the FIR, the case of the prosecution is as under :

“The applicant Balkar Singh So Shri Gurmukh Singh is permanent resident of DeraButta Singh Harigarh Bharakuh, Tehsil Pehwoa, District Kurukshetra. Jatinder Singh is my son and is unemployed. 2. The applicant is agriculturist and has to children. 3. That the accused persons were aware that Jatinder is unemployed and has passport. The above accused

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have contacted for sending Jatinder Singh to abroad for job. They have told that they have already sent many boys from your area. 4. The applicant has talked with one relative namely Baljinder Singh son of Shri Baldev Singh, Prempura, District Kaithal, Haryana who is educated person and he also had come to our village. 5. The said relative Baljinder Singh, myself and my son have contacted with accused, and alongwith Gurmeet Singh met with accused at Bus Stand Pehowa. Accused No.1 and 4 assured us that they are authorized agent from Government and will get job in America for your son. After some time accused contacted and said that we have a good offer of job in an American Company and will appoint your son in America. 6. Accused no. 1 and 4 demanded Rs.37 lakhs for providing job in an America and deal was finalized for Rs.35 lakhs. Accused no.1 and 2 said that Rs.5 lakh as advance and remaining Rs.30 lakh on reaching and joining in America. The accused has taken photocopy of passport, 4 photographs and got signature on blank papers of my son and advised to wait some time. 7. That the applicant collected some money from relatives and some money on interest. The accused have sent my son Dubai and stated that he will go America via Dubai. On reaching at Dubai, the accused demanded money and my relative Baljinder Singh has deposited an amount Rs.3.58 lakh in accused account and Rs.1 lakh deposited by Karnail Singh in company account disclosed by them. Copy attached. The accused kept my son in Dubai for some days and assured to send him in America soon. 8. That after some days accused sent applicant son in Serbia and then applicant asked that our deal was to send America. The applicant suspects that his son is sending through donkey (illegal Immigration). They accused demanded Rs.10 lakh more for paper work to send my son at correct place. The accused No.1 and 4 taken Rs.9 lakhs cash

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at Grewal Dhaba Doraha. At that time Baljinder and Gurmeet Singh were present and accused no.4 counted the money and kept it in black colour bag. 9. The son of applicant made a call by saying that he is being harassed and is being tried to cross border illegally in other country. On 21.06.2022 the son of applicant made a call from another number and stated that despite denial they are forcing me to walk 8 hrs and due to this my health is disturbed. They have not given medicine and beaten and tortured me. They snatched my money and mobile. It seems to be fraud and you don't give more money. 10. The applicant contacted accused and demanded money back by saying that you have not full filled your promised and has not sent my son at correct place. Either you get back my son or sent him in America otherwise legal action will be taken against you. You got missing my son and are not returning my money. The applicant demanded money again but accused threaten to keep silent by saying that your son is in camp and otherwise he will bemurdered. It is requested that the accused duped my in the name of sending abroad and committed fraud by hatching conspiracy. Now they are threatening me. Action should be taken against them.”

It is a case wherein the complainant alleges of having been duped on the pretext of sending him abroad.

Counsel for the petitioner is not in position to dispute that part of the money has indeed travelled to the account of petitioner No.1 Pooja.

Keeping in view the seriousness of the allegations levelled against petitioner-Pooja and the fact that her role has come forth having been one of the beneficiaries this Court does not find any reason to grant pre-arrest bail to her. Resultantly, the prayer of pre-arrest bail qua petitioner No.1 Pooja is

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declined.

So far as petitioner No.2 is concerned there is no allegation that he received any of the amounts as alleged in the complaint.

Issue notice of motion qua petitioner No.2, returnable for 27.02.2024.

Mr. Gaurav Bansal, DAG, Haryana appears and accepts notice on behalf of the respondent/State.

In the meantime, in the event of arrest, petitioner No.2-Kulwant Singh shall be released on interim bail subject to his furnishing personal and surety bonds to the satisfaction of the Arresting Officer/Investigating Officer. As and when called, petitioner No.2 shall join the investigation. He shall abide by the conditions enumerated under Section 438(2) of the Cr.P.C.”

2. Today, learned State counsel, on instructions from Investigating Officer, has stated that pursuant to the order dated 03.11.2023, petitioner No.2 has joined investigation and is no longer required for custodial interrogation.

3. In view of above, the interim order dated 03.11.2023 passed by this Court is made absolute qua petitioner No.2, subject to the conditions as enumerated under Section 438(2) Cr.P.C.

4. This order should not be treated as "blanket" order. It will not be read granting petitioner indefinite protection from arrest. It shall be confined to the FIR mentioned *ibid* and will not operate in respect of any other incident that involves commission of an offence.

5. This order does not in any manner limit or restrict the rights or duties of the police or investigating agency, to investigate into the charges against the petitioner.

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6. The petitioner shall be deemed to be in custody for the purpose of Section 27 of the Evidence Act, 1872 in regard to a discovery of facts made in pursuance of information supplied by the petitioner in case the occasion arises.
7. It will be open to the police or the investigating agency to move this court for a direction under Section 439 (2) Cr.P.C. to arrest the accused, in the event of violation of any term, such as absconding, non-cooperating during investigation, evasion, intimidation or inducement to witnesses with a view to influence outcome of the investigation or trial.
8. Needless to say that anything observed herein shall not be construed to be an opinion on the merits of the case.
9. Disposed off accordingly.

(PANKAJ JAIN)
JUDGE

27.02.2024
Dinesh

Whether speaking/reasoned :	Yes
Whether Reportable :	No