

2024:PHHC:140222



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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-52334-2024
DECIDED ON: 25.10.2024

JASWANT SINGH
.....PETITIONER

VERSUS

STATE OF PUNJAB
.....RESPONDENT

CORAM: HON'BLE MR. JUSTICE SANDEEP MOUDGIL

Present: Mr. Digvijay Nagpal, Advocate
for the petitioner.

Mr. Jaspal Singh Guru, AAG Punjab.

Mr. R.K. Malik, Advocate and
Mr. Jagbir Singh, Advocate for the complainant.

SANDEEP MOUDGIL, J (ORAL)

1. Relief Sought

The jurisdiction of this Court under Section 482 of BNSS, 2023 has been invoked for grant of anticipatory bail to the petitioner in case FIR No. 14 dated 17.08.2024 under Sections 406, 420, 120-b of IPC, 1860 and Section 24 of Immigration Act, 1983, registered at Police Station NRI Patiala.

2. Facts:-

"At this time it is recorded that a letter No. 23376/Nodal Officer- 3 NRI Wing, dated 16.08.2024 by Additional Director General of Police, NRI. Wing, Hans-7, SAS Nagar along with original application UID. No. 2407775 dated 26.06.2024 by Charanjit Singh son of Sukhdev Singh resident of Village Sadaranpur, Tehsil Patra District Patiala against Gurbaj Singh son of Roor Singh, Jotrup Kaur wife of

Gurbaj Singh, Roor Singh, Manjit Kaur wife of Roor Singh, all resident of Village Bodewal, District Tarn Taran and enquiry report regarding registration of: FIR is received through post. The detail of the application submitted by the applicant Charanjit Singh is as under:- To ADGP, NRI Wing, Punjab. Subject:- Application against Gurbaj Singh son of Roor Singh, Jotrup Kaur wife of Gurbaj Singh, Roor Singh, Manjit Kaur wife of Roor Singh, all resident of village Bodewal, district Tarn Taran in connivance with each other have committed a fraud of Rs.46 lakhs on the pretext of sending abroad. Sir, it is requested that I Charanjit Singh son of Sukhdev Singh, am the resident of village Sadharanpur, Tehsil Patran, District Patiala. I wanted to go abroad for my better future. Regarding this, I had a conversation with my relatives: Roor Singh, resident of village Bodewal, District Tarn Taan is related to us. Gurbhaj Singh son of Roor Singh and daughter-in-law Jotrup Kaur have gone abroad in New Zealand. In October 2022, Roor Singh told my father Sukhdev Singh that his son Gurbhaj Singh and daughter-in-law, Jotrup Kaur are settled in New Zealand and are also doing the work of visa. Roor Singh assured my father that he would get my work visa of abroad New Zealand and would give me work there and will get me settled in New Zealand. My friend Gobindpreet Singh son of Jarnail Singh, resident of village Sadharanpur also wanted to go abroad, I also spoke to Gobindpreet Singh about this. I and Gobindpreet Singh agreed to go abroad to New Zealand. We talked to Gurbaj Singh and his wife Jotrup about applying for a visa and Gurbaj Singh has informed us that one person cost Rs.25 lakh rupees work permit, for getting work and for settling abroad. After conversation between me and Gobindpreet Singh, the matter was settled for 23 lakh rupees per person, totaling 46 lakh rupees. After which, Gurbaj Singh started the visa process and on the asking of Gurbaj Singh, I, my brother Karamjit Singh and Gobindpreet Singh came to their village Bodewal and paid a sum of Rs.03 lakh in cash. In February 2023, the work visa of Gobindpreet Singh and myself have been received, who got us carpenter work visa in JPG Construction limited registered in the name of his wife Jotrup Kaur. On the asking of Gurbaj Singh, we transferred a sum of Rs.43 lakh in bank account numbers given by him of different persons. On 15.04.2023 Gobindpreet Singh and I, went abroad to New Zealand. After going to New Zealand, for a few days, Gurbaj Singh and Jotrup Kaur kept on dilly delay to get us work, but we were not provided any work there. When we started talking to Gurbaj Singh about the work, then at first, he replied that there is no work in New Zealand, I will give you back your money, and you go to India. When we again asked about returning the money, he started threatening to kill us and implicate us in false cases. In New Zealand, we can work only, in the company for which, we came on work visa. But Gurbaj Singh has not given us any work or accommodation, which he promised before issuance of visa and Gurbaj Singh has also admitted during the phone

conversation later on. Audio, video recordings of Gurbaj Singh regarding returning money, providing work, sending back to India, threatening and assaulting, would be produced, if required. I and Gobindpreet Singh have been living separately from Gurbaj Singh, since October 2023 and are living from the earnings of our parents from India. Gurbaj Singh, Jotrup Kaur, Roor Singh, Manjit Kaur in connivance with their accomplices committed a fraud of Rs.46 lakhs on the pretext of providing work permit and providing work at New Zealand. Due legal action should be taken against them and justice should be given to us. Sd/-Charanjit Singh, Charanjit Singh son of Sukhdev Singh, resident of Village Sadharanpur, Tehsil Patran, District Patiala. Mob. No 99155-05648, on which in-charge PC, Branch-3 NRI Wing, Mohali office under his signature office note, in which 'The said application relates to District Patiala. Instructions issued from time to time by GP, Punjab, Standing Order No. 03/2024 and Hon'ble Supreme Court of India in compliance with the instructions issued in the case of Lalita Kumari v. State of U.P. to send the application to this office for action as per law.' application AIG PTL is submitted to you for further orders, on writing Assistant Inspector General of Police, (Local) NRI Wing, Mohali is attached and submitted to Assistant Inspector General of Police, (Local) N.R. I. Wing, Mohali. Who have on the abovesaid office note Assistant Inspector General Police, (Local) NRI Wing, Mohali and ordered Approved pl. 26/4 and Assistant Inspector General of Police, (Local) NRI. Wing, Mohali who signed on the no. slip and ordered approved pl. 27/6 and his office number 2097 dated 28.06.2024 and forwarded to Assistant Inspector General of Police, NRI Patiala by writing forwarded to AIG/NRIPTL to Wing, Patiala. Upon which, Assistant Inspector General of Police, NRI. Wing, Patiala started investigation of the said application by putting its office number 453/C dated 28.06.2024. Assistant Inspector General of Police, NRI Wing, Patiala vide enquiry Report No. 453/C dated 02.08.2024 of the said application, recommended, which is as under, "On investigation of the subject under application it is found out that (C1) Charanjit Singh and (C2) | Gobindpreet Singh spoke to answering respondent (RI) Gurodi Singh son of Arur Singh, resident of village Bodewal, District Tarn Taran about going abroad to New Zealand, answering respondent (R1) Gurbaj Singh assured that he would get him a New Zealand work visa and provide work there and would get him settled in New Zealand. (R1) Gurbaj Singh demanded Rs.23 lakh per person. Charanjit Singh and Gobindpreet Singh gave RS.23 - Rs. 23 lakh on asking of Gurbhai Singh and transferred the money in the bank account given by Gurbaj Singh, most of the amount Rs. 10 lakh in the account of Manjit Kaur wife of Arur Singh, Rs. 08 lakh in the account of Jaswant Singh son of Balbir Singh and Rs. 4,75,000/- in the account of Jaskaran Kaur, wife of Prabhdyal Singh. Apart from this, Gurbai Singh got transferred money in the account of other persons. Whose role would be considered during the investigation. (RI) Gurbal

Singh through his family owned firm JPG Construction limited, in which (R1) Gurbaj Singh has not produced any authentic document regarding the visa processing of (C1) Charanjit Singh and (C2) Gobindpreet Singh but the expenses incurred. (C1) Charanjit Singh and (C2) Gobindpreet Singh in the month of February 2023 New Zealand work visa was issued. (C1) Charanjit Singh and (C2) Gobindpreet Singh went abroad to New Zealand on 15.04.2023. But after going abroad to New Zealand, Gurbaj Singh gave work to Charanjit Singh and Gobindpreet Singh for a few days, but after a few days, Gurbaj Singh stopped giving work and (C1) Charanjit Singh and (C2) Gobindpreet Singh took money from their family for their livelihood. As per New Zealand labor law, (C1) Charanjit Singh and (C2) Gobindpreet Singh could only work in JPG Construction limited company, but Gurbaj Singh did not give any work to (C1) Charanjit Singh and (C2) Gobindpreet Singh and neither accommodation was given, although, all the matter said by him, before getting the Visa processed. (R1) Gurbaj Singh and (R2) Jotrup Kaur, at first agreed to refund their money to the applicant party, for which, recording has also been produced by the applicant party. However, Gurbaj Singh neither gave work to the applicants Charanjit Singh and Gobindpreet Singh, nor refunded their money, but canceled the visa by sending mail to the authority regarding cancellation of work visa of (C1) Charanjit Singh and (C2) Gobindpreet Singh. After which, now (C1) Charanjit Singh and (C2) Gobindpreet Singh are living in New Zealand on Migrant Exploitation Protection Visa. Upon the enquiry of the application, (R1) Gurbaj Singh along with his accomplices got about Rs.46 lakh from the applicant party by pretending to settle abroad and later, under the conspiracy, (C1) Charanjit Singh and (C2) Gobindpreet Singh is proven to have committed fraud by canceling his New Zealand visa abroad. Therefore, the respondents Gurbaj Singh son of Arur Singh, Manjit Kaur wife of Arur Singh, all resident of village Bodewal, district Tarn Taran, Jaswant Singh son of Balbir Singh, resident of village Khanpur, district Ferozepur and Jaskaran Kaur wife of Prabhadyal Singh, resident of Quarter No. RC 2/44, police line Ferozepur, FIR is recommended to be registered under Section 420, 120-B of the Indian Penal Code. During the investigation, if testimony against another person comes to light, then his role also has to be considered during the investigation of the case. The report is submitted for appropriate order and further action", is being sent to Additional Director General of Police, NRI Wing, Punjab, Branch-7, SAS Nagar. Upon which, the Nodal Officer-3 posted his branch number 15964/NRI dated 05.08.2024. The said enquiry report of Assistant Inspector General of Police, NRI Wing, Patiala, the Additional Director General of Police, NRI Wing, Punjab, Phase-7. On behalf of SAS Nagar, Assistant Inspector General of Police, HQ, NRI Wing, Mohali vide his office No. 22293/NABLE-BASE-3. Wing, vide letter dated 07.08.2024 to the Legal Adviser NRI Wing, SAS Nagar, sd/- by the Additional Director General of

Police, NRI. Wing, Punjab, Phase-7, SAS Nagar. Towards, Legal Advisor NRI Wing, SAS Nagar. No. 22293/Needle-Desk-3 NRI. Wing, dated 07/8/2024 Subject: Application U.I.D. No. 240775 by Charanjit Singh son of Sukhdev Singh and Gobindpreet Singh son of Jarnail Singh of Patiala. Enquiry report of the application regarding the subject Assistant Inspector General of Police, NRI. Wing, Patiala at this office. If Additional Director General of Police, NRI on the orders of Wing SAS Nagar. G., AAP is being sent to take legal opinion. After giving the legal opinion, the investigation report should be sent back to this office. Enclosed: Original Enquiry Report Sd/- AJinder Singh 7/8 Ajinder Singh PPS AIG (HQ) Additional Director General of Police, NRI Wing, Punjab, Phase-7, SAS Nagar. The District Attorney, N.R.I. Wing, through his office No. 548/D.A N.R.I dated 12/08/2024 the Additional Director General of Police, NRI, Wing, Punjab, SAS Nagar giving legal opinion which is as under," Subject Application UID No. 240775 by Charanjit Singh and Gobindpreet Singh, residents of District Patiala, Report No. 48/D.A/N.R.I dated 12/08/2024 Applicants Charanjit Singh and Gobindpreet Singh related to the case, application under subject, the enquiry report of AIG/NRI Wing/Patiala dated 02.08.2024 and in the relevant record, the allegations made in the application, the applicant Charanjit Singh and Gobindpreet Singh in their application In 1) Gurbaj Singh etc.. accused in the enquiry party of obtaining money by promising to issue work permit abroad and later canceling the visa. Recommendation of the investigation officer-A. IG/NRI Wing/Patiala has written in his investigation report dated 02.08.2024 that the respondent party against 1) Gurbai Singh 2) Manjit Kaur 3) Saswant Singh 4) Jaskaran Kaur U/S 420, 120-B IPC is being recommended to register case under IPC. Facts revealed during the investigation - On the basis of the investigation report of AIG/NRI Vig/Patiala and on the basis of the relevant records, it has come out that the respondent party Gurbaj Singh along with his accomplices abroad, it has been found to have cheated by getting a sum of Rs.46 lakh from the applicant party by not providing them work as per the agreed negotiations and later by getting the visa cancelled of Charanjit Singh and Gobindpreet Singh to New Zealand as part of the conspiracy. Legal Opinion- According to my opinion, if the enquiry report of AIG/NRI Vig/Patiala is based on correct facts, then the respondent party 1) Gurbaj Singh 2) Manjit Kaur 3) Jaswant Singh 4) Jaskaran Kaur Prima facie offenses are made out against them under Sections 406,420,120-B IPC and 24 Immigration Act 1983. If any other facts come to light during the investigation, then the accused can be increased/decreased accordingly. If it is acceptable, then the SHO, Police Station NRI, Patiala may be directed to register a case. Even then, the decision taken by you would be final and acceptable. Report is submitted. Sd/- District Attorney, NRI Wing," legal opinion of District Attorney NRI Wing upon which ADGP, NRI Wing has directed and written, SHO P.S. NRI

Patiala, to register case and investigate Sd/- PK Sinha 16/8/2024. Upon which the reader ADGP NRI Wing vide his no. 1407/Reader/ADGP/NRI 16/08/2014 upon which ADGP NRI Wing, Punjab, Phase-7, NRI Wing, Mohali issued a letter to the SHO, NRI, Patiala, which is as under," by Additional Director General of Police, NRI Wing, Punjab, Phase-7, SAS Nagar. To, SHO Police Station N.R.I. Patiala No. 23376/Nodal-Desk-3 NRI Wing, dated 16/8/2024 Subject: Application U.I.D. No. 2407775 by Charanjit Singh son of Sukhdev Singh and Gobindpreet Singh son of Jarnail Singh, resident of Patiala, regarding the subject, enquiry report by Assistant Inspector General of Police, NRI. Patiala is received in this office. Upon which, after taking legal opinion from the law officer, Additional Director General of Police, NR. Wing, Mohali SHQ.P.S. NR Ratiala has directed to register case and investigate. Above said enquiry report alongwith order, complete record is being sent to you for further action. After registration of the case, a copy of the FIR should be sent to this office. Attached:- Original Report, along with records Sd/- AJinder Singh 7/8 Ajinder Singh PPS.AIG (HQ)"

3. Contentions

On behalf of the petitioner:

Learned counsel for the petitioner contends that the petitioner just received the amount in his account from the complainant party and he further transferred the said amount of Rs.8 lakhs to Harpreet Kaur on the instructions of his relative, namely, Gurbaj Singh directly and through his brother and that the petitioner never met the complainant party and was never in contact with them. He also placed on record Annexures P3 & P4 i.e. The bank statement depicting that the petitioner just received the amount in his account and the main accused had received amount from the petitioner and one Rajwant Singh.

He further submits that the main accused, namely, Gurbaj Singh and Jotroop Kaur facilitated work visa to the complainant, who actually utilized the said visa and worked for sometime at New Zealand in support of which letters dated 19.10.2023 and 24.10.2023 (Annexure P-15) have been placed on record, wherein the reason for termination has been categorically recorded as 'abandonment of employment' .

On behalf of respondent-State

On the asking of Court, Mr. Jaspal Singh Guru, AAG Punjab, accepts notice on behalf of respondent-State, who seeks dismissal of the present petition primarily on the ground that the petitioner committed serious offence and the subject amount is yet to be recovered from the accused persons. He further contends that various amounts have been proved to have been transferred in the account of the petitioner and other accused persons which shows that the petitioner was one of the beneficiaries and as such, his custodial interrogation is required.

5. Analysis

Be that as it may, considering the fact that the petitioner is not the beneficiary of the said amount in any manner whatsoever, as the amount was credited to his relative's account and in that endeavour further the work visa was facilitated as has been submitted by learned counsel for the petitioner, which is well supported by letters of termination on account of abandonment of employment dated 19.10.2023 & 24.10.2023 (Annexure P-15), this Court is of the opinion that the *prima facie*, it cannot be said that the petitioner actually acted in a way to fraud or cheat the complainant.

6. Decision

In view of the above, this Court does find any reason to decline the present petition as the custodial interrogation of the petitioner is not required by any stretch of imagination, hence, he is directed to join the investigation within a period of 10 days and in case of doing so, he shall be released on anticipatory bail subject to 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 do not comply with the aforesaid direction of joining the investigation within 10 days, the order passed by this Court today shall automatically, stand cancelled.

In the afore-said terms, the present petition stands allowed.

25.10.2024

Meenu

(SANDEEP MOUDGIL)
JUDGE

<i>Whether speaking/reasoned</i>	<i>Yes/No</i>
<i>Whether reportable</i>	<i>Yes/No</i>