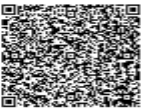


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2024:PHHC:144834



IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-55403-2024
DECIDED ON: 07.11.2024

KARAMJIT KAUR

.....PETITIONER

VERSUS

STATE OF PUNJAB

.....RESPONDENT

CORAM: HON'BLE MR. JUSTICE SANDEEP MOUDGIL

Present: Mr. Navjeet Singh, Advocate
for the petitioner.

SANDEEP MOUDGIL, J (ORAL)

1. Relief Sought

The jurisdiction of this Court under Section 438 Cr.P.C., has been invoked seeking the concession for the grant of anticipatory bail to the petitioner in FIR No.69 dated 12.07.2024, under Sections 406, 420, 120-B of IPC, 1860 registered at Police Station Dehlon, District Police Commissionerate Ludhiana.

2. Facts

The prosecution story set up in the present case as per the version narrated in the FIR read as under :-

“Today, one complaint PGD No. 338560 System ID 337540 dated 23-4-2024 by Sharanjit Singh son of Mukhtiar Singh, resident of village Guram, district Ludhiana, regarding the rejection of the marriage by cheating and spending money by fraud, after investigation by the

officers and later by the order of the Hon'ble commissioner of Police, Ludhiana, has been received in the police Station through post for registration of FIR. .. The contents of which are as under:- To The Hon'ble Commissioner Subject: -Application against Girl's Phuphar Parminder Singh (Mob: 98153-74810) son of Naginder Singh resident of Tehsil Raikot for committing fraud and cheating of Rs. 10,00, 000/- fraudulently on account of sending abroad, by doing roka by showing fake girl and his companion Kulwinder kaur Mob. 98557-57346 wife Surinder Singh, resident of Kila Raipur, Ludhiana and sister of Kulwinder Kaur Kammo (mob: 84374-32753) and fake Bhua of girl namely Narinder Purewal (mob : 89681-89194) and alongwith her mother Sheetal kaur and Sheetal Kaur's father Mohan Singh, who have come to Ludhiana from Canada at this time, conspired with each other and to commit fraud and spend our money and backout of the marriage, appropriate legal action be taken against them. Sir, it is requested that I Sharanjit Singh son of Shri Mukhtiar Singh, resident of village Guram, Ludhiana do hereby submit that: That the name my son is Sandeep singh, I have to marry my son and first of all: Kulwinder Kaur is my acquaintance, so I went to her house and where her was also present on the spot. Both of them admitted to me that Parminder Singh's niece is a Canadian citizen, whose marriage is yet to be solemnized and she told that I will do : your talking and Kulwinder Kaur said that she will take Rs. 10, 00, 000/- in lieu of fixing the marriage and regarding the above said subject, Parminder Singh was told to be the phuphar of the girl and disclose the girl's name as Amandeep Rai daughter of Major Singh Rai and also showed the girl from the spot.. The agreement has been written in which entire payment of the marriage and sending abroad is settled for Rs. 25,00, 000/- Rs. twenty five lakh rupees) and they took Rs. 10, 00, 000/- from me Details are as Rs. 3, 00, 000/ - Cash at Kulwinder Kaur's house at Kila Raipur, Rs. 5, 00, 000/- on dated 12-04-2024 through bank transfer • only in the name of Parminder Singh and Rs. 2, 00,000/- has been jointly received by them. All this work was done in the presence of Sheetal Kaur and Mohan Singh in connivance with each. The girl's

photo was faked on the girl's passport. This agreement. was written on dated 12-04-2024 and marriage has been fixed in October. On 18-04-2024 engagement ceremony was performed between girl and boy, the photographs of the marriage on the spot are available. But they back out from the marriage prematurely and started began to talk something else and kept on linger on the matter and meeting was held 3-4 times in the presence of respectable persons but these persons did not agree to anything. When I asked about the writing of the agreement, Parminder Singh etc threatened me and also threatened that if you demanded the amount back, they will kill you and your family. They have conspired together to cheat us of Rs. 10,00,000/- and usurp the amount. We have come to know that the girl they showed is fake. I and my family are at risk of life and property from them. I request you that a case should be registered against all the persons of the said subject and appropriate legal action may kindly be taken. Please protect us and my money should be returned . back from them. Justice be done to us and teach them a lesson so that they don't cheat anyone else in the future. I shall be very thankful to you. With thanks, Yours sincerely, Saranjit Singh (Saranjit Singh son of Mukhtiar Singh, resident of village Guram, Ludhiana Adhaar No: 5100 4073 9385 Mo: 94175-41772 dated 23/4/2024. The investigation of the said application number was carried out by the Honorable Assistant Commissioner of Police, south Ludhiana. In the investigation report, it is written that, during the investigation conducted so far, the statements obtained, the documents and the facts revealed, the following facts have been revealed: -1. The applicant Sharanjit Singh had decided to marry his son Sandeep Singh with Amandeep Rai daughter of Major Singh, a resident of village Saraya Khas, Jalandhar at present Canada. An agreement dated 12.04.2024 has also been entered into by both the parties which is attached herewith. 2. According to this agreement, the total expenses of Rs. 25,00,000/- (Rupees 25 Lakhs) and it was to be given by the applicant party to the opposite party in respect of which an amount of Rs. 8, 00, 000/- was to be transferred in the account of Parminder Singh in advance through bank and the remaining amount (Rs. 17

lakhs) was to be paid at the time of marriage in the month of October.

3. In the agreement dated 12.04.2024 between both the parties, it was also settled that the girl Amandeep Rai will go back after performing the marriage and same is to be registered with applicant Sharanjit Singh's son Sandeep Singh and she will go back and after the marriage will put the file of the boy Sandeep Singh in Canada and she will be bound to call within 6 months. On the agreement dated 12.04.2024 there is a signature of Parminder Singh on behalf of girl party and Kulwinder Kaur has signed as a witness to it.

4. The applicant party has submitted his bank account and from perusal of the statement, it is found that on 12.04.2024, Sandeep Singh transferred Rs. 5, 00, 023.60/- from his bank account to the account of Parminder Singh Buttar and the remaining advance amount of Rs. 3, 00,000/- was given to the opposite party in cash in the house of Kulwinder Kaur at village Kila Raipur Ludhiana. In respect of which in the agreement dated 12.04.2024 Praminder Singh (the opposite party) has admitted that he has taken Rs. 8, 00, 000/- in advance for the purpose of marriage.

5. From the photographs taken by the applicant on 18.04.2024 during the shagan of Sandeep Singh and Amandeep Rai, it is clear that Parminder Singh and Narinder Kaur Purewal of the opposite party were present during the shagan program who identified themselves as Bhua and Phuphar of the girl Amandeep Rai. The photographs of Shagan ceremony are attached herewith for the perusal.

6. During the enquiry of the application, the opposite party Karamjit Kaur has written in her statement that Ravi Bhatia resident of Sahnewal Ludhiana misled the opposite from the complaint and party to resile from the complainant and arrange with the policemen in exchange of Rs. 80,000/- cash from the opposition party Karamjit Kaur. According to Karamjit Kaur's statement, it has come to light that Ravi Bhatia, resident of Sahnewal, Ludhiana, misled the opposition party and cheated them of money. From the investigation so far, it has been found that the applicant Sharanjit Singh agreed to marry his son Sandeep Singh to Amandeep Rai. Regarding which an agreement dated 12.04.2024 was also entered into by both the parties and as per the agreement, a total of Rs.

25,00,000/- (Rupees 25 Lakhs) for the expenses incurred during the marriage was decided to be paid by the applicant to the opposite party in respect of which Rs. 5, 00, 023. 60/- was deposited by Sandeep Singh in his bank account in the account of Parminder, Singh Buttar and the remaining advance amount of Rs. 3, 00,000/- was given by the applicant in cash to the opposite party at the house of Kulwinder Kaur at village lila Raipur Ludhiana and the remaining amount (Rs. 17 lakhs) at the time of marriage in the month of October. According to the agreement dated 12.04.2024, the girl Amandeep Rai was bound to send the boy Sandeep Singh to Canada within 6 months after the marriage. On 18. 04. 2024, Parminder Singh and Narinder Kaur Purewal of opposite party were present in the Shagun ceremony, who presented themselves as the . Bhua and Phuphuar of the • girl Amandeep Rai. Similarly, the opposite party Parminder Singh son of Naginder Singh resident of village Nathowal, police station Hathur, district Ludhiana, Narinder Kaur Purewal daughter of Mohan Singh resident of house no. 15, Ganes Nagar, Rama Mandi, Jalandhar, Kulwinder Kaur wife of Surinder Singh resident of village Kila Raipur station Dehlon Ludhiana and police Karamjit Kaur wife of Jagtar Singh resident of village Sukhana police station Sadar Raikot district Ludhiana mutually in connivance with each other, in order to send Sandeep Singh son of Sharanjit Singh in abroad. It is proved that the opposite party committed a fraud of about Rs. 8, 00, 000/- upon the applicant on the pretext of fake marriage on account of sending the applicant's son abroad. If any evidence against Ravi Bhatia resident of Sahnewal Ludhiana comes to light during the investigation of the case. Actions will be taken as per the circumstances. Recommendation: - If approved, file a case against the opposite party Parminder Singh, Narinder Kaur Purewal, Karamjit Kaur and Kulwinder Kaur under the Offence 420, 406,120-B IPC, Police station Dehlon Ludhi: An order of investigation should be given to SHO P.S. Dehlon, Ludhiana. Assistant Commissioner Police Hon'ble South Ludhiana ji sent his report to the service of senior officers Bala ji through proper system. Hon'ble Additional Deputy Commissioner Police zone -2, Ludhiana agreed

with his report. Expressed and sent senior report to the service of his officers through the appropriate system. On which the Honorable Deputy Commissioner Police Rural, Commissionerate Ludhiana ji agreed and sent his report to the service of the Honorable Commissioner Police Ludhiana through the appropriate system”

3. Contentions

On behalf of the petitioner

Learned counsel for the petitioner submits that out of the total payment made by the complainant, Rs.7.5 lacs stands returned, as marriage could not be performed due to unavoidable circumstance and on account mis-understanding was created, which resulted into the registration of instant FIR merely for the purpose of using the same an arm twisting mode.

It is also asserted on behalf of the petitioner that since she has returned the amount of Rs.7.5 lacs, the ingredients of Section 406 & 420 are not made out in the instant FIR inasmuch as the intention to deceit at the very inception of understanding arrived at between the parties i.e., for sending the son of the complainant abroad after solemnization of marriage with a girl of having NRI status, cannot be made out.

Notice of motion.

On behalf of the respondent/State

On the asking of Court, Mr. Jaspal Singh Guru, AAG Punjab, accepts notice on behalf of respondent/State and submits that the complainant in so many words stated that the deal was struck and a demand of Rs.25 lacs was made in total out of which actually Rs. 10 lac has been paid and another 2.5 lacs is yet to be returned by the petitioner and other co-accused persons. He further submits that the petitioner is a habitual offender as she is involved in various cases in similar nature.

4. Analysis & Decisions

Be that as it may, having regard to an admitted fact that an amount of Rs.7.5 lacs stands returned, the essential element of Sections 406 and 420 of IPC, which needs to be read alongwith Section 419 may not be finally established during the course of trial.

As far as the involvement of the petitioner is concerned, this very fact is not denied that she is running a marriage bureau may be without a licence unauthorizedly for which State also cannot shed of its own liability and at the same time, as it is the complainant as well, who has entered into an understanding/contract, which is legally not enforceable, it would be unjust to drag the petitioner into this unwarranted criminal litigation.

In the light of above, this Court finds no reason to deny the petitioner the concession of anticipatory bail wherein the petitioner has bona fide intentions and is ready and willing to join the investigation and cooperate for furtherance of the same so that the final report can be submitted by the Investigating Agency in time.

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 her joining investigation and reporting to the Investigating Officer concerned within a period of 10 days from today, on 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.

(SANDEEP MOUDGIL)
JUDGE

07.11.2024

Meenu

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