

2024:PHHC:149330



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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-56144-2024
DECIDED ON: 18.11.2024

RAJU SWAMI

.....PETITIONER

VERSUS

STATE OF PUNJAB

.....RESPONDENT

CORAM: HON'BLE MR. JUSTICE SANDEEP MOUDGIL

Present: Mr. Ankur Malik, Advocate and
Mr. Monu Sharma, Advocate
for the petitioner.

SANDEEP MOUDGIL, J (ORAL)

1. Relief Sought

The jurisdiction of this Court under Section 482 of The Bharatiya
Nagarik Suraksha Sanhita, 2023, has been invoked seeking the concession for the
grant of anticipatory bail to the petitioner in FIR No.0017 dated 04.04.2024, under
Sections 406, 420 of IPC, 1860 registered at Police Station Hajipur, District
Hoshiarpur (Anneuxre P-3).

2. Facts

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

*“The contents of Complaint No.7451-PD 16.8.2023 to SSP Sahib,
Hoshiarpur. Subject:- Fraud regarding sending me and my friend to
Polland on Study Visa. Sir, it is request that I Harpinder Singh son of*

Sarwan Singh, is resident of VPO Gera, Tehsil Mukerian, Distt. Hoshiarpur. That I and my friend Maninder Singh son of Balwinder Singh R/o Village Sibbochak, Post Office Hajipur, Tehsil Mukerian, District Hoshiarpur wanted to go to Polland on study visa and we had one contact i.e. Raju Swami resident of H.O.44, Lok Vihar Apartment, Vikaspur New Delhi 110018, Phone n0.9910350058, +9111493847224. I and my friend applied to Study Visa to go Polland on Study Visa with abovementioned agent. I, Harpinder gave an amount of Rs.4,90,000/- and my friend Maninder Singh gave an amount of 4,90,000/-to above mentioned agent for going abroad. This agent told us that either he will send us aborad through Polland Study Visa or through Work permit in Poland. Raju Swami took Rs.50,000/-each from us as advance on 6.6.2021 at Hajipur and remaining amount was handed over to him in September 2021 and at that time he told that our fee has been deposited. When I and my friend requested him to provide the study fee slip, for one month he had been delaying the matter and thereafter we went to his house at Delhi and remained sitting there for almost 4 hours and demanded pay slips but he did not provide us fee slips. When we were returning back home, then the agent sent fake edited slips on the phone of my brother who is settled abroad. The same were fraud pay slip. In January 2022, we went to the above mentioned agent for demanding our money back. The agent told us to wait till March 2022, he will complete our work or will return back the amount. Thereafter, we many times called the agent on phone but he never attended our phone. The phone number of the agent is mentioned in previous page. We are annexing the detail bank statement of money sent by us to the agent. It is requested that our money be recovered from the agent and be given back to us which is annexed with the complaint. Because we have taken this money from bank on loan. The bank employees are pressuring us daily to deposit the interest amount. They had made our life hell. Thanking you, yours sincerely Harpinder Singh (Self),8725827861 (9914783435), Balwinder Singh (father)94636-73948 dated 13.10.2022."

3. Contentions

On behalf of the petitioner

Learned counsel for the petitioner submits that the role assigned to the petitioner is only of introducing the complainants to the main accused namely Ajit Khokar, who agreed to send both the complainants to Poland and promised for facilitating their visas and other necessary formalities.

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, who on instructions from ASI Ashwani Kumar could not controvert the aforesaid fact and rather candidly submits that the main accused namely Ajit Khokar has actually promised the complainants to send abroad and collected money.

4. Analysis & Decisions

Be that as it may, after giving a thoughtful consideration to the submissions made by counsel for the petitioner, particularly to the effect that except introducing the complainants to the main accused, no other incriminating material is coming forth qua the petitioner and admittedly he is not a beneficiary in any manner directly or indirectly, 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 him 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

18.11.2024

Meenu

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