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2024:PHHC:169710

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRM-M-58892-2024
DECIDED ON: 29.11.2024

NAVPREET SHARMA

.....PETITIONER

VERSUS

STATE OF UT CHANDIGARH

.....RESPONDENT

CORAM: HON'BLE MR. JUSTICE SANDEEP MOUDGIL

Present: Mr. Amit Kumar Dhiman, Advocate
for the petitioner (through hybrid mode).

Mr. Vivek Singla, APP, U.T., Chandigarh.

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SANDEEP MOUDGIL, J (ORAL)

1. Relief Sought

The jurisdiction of this Court has been invoked under Section 483 of BNSS, 2023 for grant of regular bail to the petitioner in case FIR No. 0092, dated 10.08.2024, under Sections 406, 409, 420, 467, 468, 471 and 120-B IPC, registered at Police Station Cyber Crime, District Chandigarh.

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

> *"Statement of Ganesh Mal s/o Lt. Sh. Shankar Lal r/o Vill Khinyala, Tehsil Jalyal PS Jayal, Distt. Nagour (RJ) age 52 years, M.No.6367702594. Stated that I reside at the above address alongwith my family. And do the work of Carpenter in my village itself. In April 2024, I saw the add of one Visa Company Global Consultant SCO No. 292, 15t Floor, Sec 32-D, Chandigarh on my Facebook*

ID and called on the M.No. 7529864834 given in this add. One girl picked the phone and told that their company do the work of sending to Azerbaijan and told her name as Gazal Kapoor and for getting more information called in office Chd. I along with my son-in-law (Damad) Vikas came to their office Sec 32D on 25.4.24, met Gazal Kapoor. At that time in her office, three girls and two boys were working, they told us that they send group of 25/30 persons for working in Azerbaijan, in which Carpenter, labourer, anyone can be there and the total expenses for sending to Azerbaijan will come to Rs. 1,35,000/- per head. In which they will get done the entire process, Air Ticket etc, in the same and will also provide them work upno reaching at Azerbaijan and their Azerbaijan salary will be Rs. 1 lakh per month. She also said that half money after offer letter and rest of the money will have to be given upon getting visa. I found their offer to be good and as group was going, then I told about the same to the persons of my village and to some known persons of the adjoining villages. For the same, some from my village and some from other village got ready. Regarding the same, I talked with Ghazal Kapoor in the above Visa company. She told us to send our respective Passport through courier. In the beginning, I sent her Passport of 5 persons through post and through Whats app. The above company, for these five Passport, for one EVRASCON Company made Offer letter of Azerbaijan and sent the same on Whats app to me. After that they demanded Rs. 25,000/- from me. As per their asking, on 28.5.2024 I sent the same on their UPI ID-gaggarwal206-1@oksbi, which was in the name of Shubham, from my daughter Saraswati's A/c No. 83010221250, Rajasthan Marudhar Gramin Bank through Google pay. I showed this Offer letter to my other acquaintance and told them, then they also became ready. Apart from us 5 persons, whose Offer letter had come, other 24 persons became ready to go to Azerbaijan and they also gave their respective Passport to me. I also sent the same to the above Grobal Consultant Company Chd through Whats app and Post. They also sent their offer letter to me on Whats app, after that they started saying that you all have to give Rs. 50000/- now. On 9.6.24, I sent Rs. 50000/- on their above UPI ID from the above A/C of my daughter Online. After that they again *telephonically called on 9.6.24 that you Visa has come, you come and deposit your half money. On 10.6.24, I along with my five fellows Pappu Ram, Kamal, Dwarka Parsad and Driver Suresh came to their office Sec 32D Chd and gave Rs. 1109000/- to them in cash as per their asking. They made a receipt of the same and gave it to me and on 10.6.24, itself myself from my daughter Saraswati's above A/c Rs. 50000/- 50000/-9000 109000/-, from Surender's A/c 15000/-, 60000/-, 25000/-, 15000/-, 25000/- 140000/- and from Dwarka Parsad A/c 50000/- and from E-Mitra ID 49000/- 49000/- 40000/- 1999 Total Rs. 139999/-, sent the same on the above UPI ID Shubham given by them online. Which in total comes to 438999/-. After that they told that your ticket is ready for 15.6.24 and give the balance amount. For sending total 27 persons, talk took place for Rs. 35,00000/-(Thirty-five lakh). Then on 11.6.24, myself from the A/c of my daughter Saraswati, as per their asking sent 50000/- 50000/- 100000/- in UPD ID of Shubham and from A/c of Ramvilas I the A/c of above Subham 49000/- 2000/- 48000/- 99000/- and from E-Mitra Rs. 50000/- were sent in Kamal's UPI ID gaggarwal206-1@oksbi. On 11.6.24, total Rs. 2,49,000/- were sent to their A/c online. On 12.06.2024, from E-miter 49000/- in the A/c of Subham given by them and 50000/-in A/c of Kamal, Total Rs. 99000/- were sent Online. After that they by taking the total amount in cash, called to their office and told us regarding giving Ticket and Visa. On 13.6.24, I along with my son-in-law (Damad) Vikas came to their office ad Chd and gave them Rs. 1300000 (Thirteen lakh) rupees in cash. They had not given any receipt of the same to us and gave us Visa, Passport and Air Ticket of everyone and started saying that we have given all your documents to you, there is no need of its Receipt because Tax is applicable on the same and the remaining 46000/- 46000/- 50000, 142000/- were deposited from the A/c of Saraswati in the A/c of their above Shubham and Rs. 40000/- were deposited in the above A/c through E-mitra. After that Rs. 40000/- were deposited in their above A/c from the A/c of Hukma Ram. In this manner, we by completing 3500000/-, gave the same to them. Our Ticket of 15.6.24 was from Delhi Airport. When we all 25 persons reached Delhi Airport then we came to know that our Ticket has been made in Duplicate. When we tried to*

> *call them, then all their numbers were off. They are having some other mobile n. 7888738567, 7529864834 and 8360819841 and 9115139787 and the Email ID given on their card is consultantglobal23@gmail.com. Myself and other 26 persons with whom cheating has been committed. Their names are 1. Girdhari Jangir, Village Keshap 2. Dwarka Parsad Village Khilaya 3. Bhawar lal Meghwal village Sagu 4. Rupa Ram Meghwal, Village Keshap 5. Sayar Ram Nayak Village Keshap 6. Suresh Meghwal Village Keshap 7. Lodo Ram Meghwal Village sagu 8. Jeevan Ram nai Village Deh 9. Shivram Village Kathoti, 10. Gopal Chati Village Khiyala 11. Babulal Jangir Village Kiyala, 12. Jetharam Jangir Village Ran Sisar 13. Kamal Kishore Rewar Village Rojond, 14. Kishore Nayak Village Keshap, 15. Paban Kumar Village Keshap 16. Ram Singh, Village Sagu 17. Ashok Kumar Village Keshap, 18. Choturam Village SAgu, 19. Jagdish Village Khiyala, 20. Vikas Jagir Village Dehri, 21. Arjan Ram Village Igyar (Adwad), 22. Kamal Village Khiyala 23. Kanihya Lal village Adwad, 24. Rattan Lal, Village Khund, 25. Ravishankar Village Dugoli, 26. Ashok Vidyasar Village Khiyala, 27. Banwari Lal Sain Village Akhrot. They refused to send me and Gopal Rathore. The persons of above Visa Company Global consultant have committed cheating of about Rs. 3500000/- Thirty five lakh rupees in the name of sending us to Azerbaijan and by preparing wrong documents, have prepared fake documents. Now they have fled away somewhere by closing their office. Legal action be taken against all these persons."*

4. **Contentions**

On behalf of the petitioner

The learned counsel for the petitioner contends that the petitioner has been falsely implicated in the present case as neither his name was mentioned in the FIR nor any specific role has been attributed to him. It is further submitted that the petitioner is only an employee working in the consultancy firm of one person namely Sanjeev Kumar.

<u>On behalf of the State</u>

Learned State counsel has filed the custody certificate of the petitioner, which is taken on record. He submits that the petitioner has duped the complainant on the pretext of sending him abroad on work Visa and there are direct allegations of receiving huge money from the complainant and also another FIR of similar nature is pending against the petitioner. Thus, the petitioner is not entitled to be released on regular bail.

5. **<u>Analysis and Conclusions</u>**

In everyday terms, the principle of law dictates that bail is the general rule, while jail is the exception. However, this Court acknowledges that the power to grant or deny bail is extraordinary and must be exercised with caution. It is well-established that when considering a bail application (whether pre-arrest or regular bail), the Court must form a prima facie opinion as to whether reasonable grounds exist to support the accusation, or if the accusation is frivolous and baseless possibly made with the intention of harming or humiliating the individual, or falsely implicating them in the crime. This evaluation must be conducted in the light of self-imposed restrictions and the broader legal parameters outlined.

This Court is mindful that, according to the legal mandate rendered by Hon'ble Supreme Court in Criminal Appeal No. 3840 of 2023, titled ***"Saumya Churasia versus Directorate of Enforcement, decided on 14.12.2023"***, when considering a bail application, the Court is not obligated to meticulously examine the evidence gathered by the Investigating Agency. However, the Court must consider several factors, including the nature of the accusation, the type of evidence collected in support, the severity of the punishment for the alleged offences, the character of the accused, the unique circumstances surrounding the accused, the likelihood of securing the accused's presence during trial, the possibility of witness tampering, and the broader interests of the public or State. In the light of these factors, when assessing a bail application, the Court is required to form a prima facie opinion based on these broad guidelines, without delving into the merits of the evidence, as doing so could potentially prejudice the rights of both the accused and the prosecution.

Considering the fact that immigration fraud seems to be of growing concern especially over recent years, the desire to settle abroad has led many individuals to fall pray to fraudulent agents and consultants who promise them jobs and visas in exchange for hefty fees. These fraudsters often target vulnerable individuals, including young people and farmers, who are desperate for better job opportunities, they dupe these innocent people of their hard earned money without even thinking about their future prospect. The consequences of immigration fraud can be severe, including financial loss and even human trafficking. Therefore, it is essential for the Government and for the law enforcement agencies to take strict actions against these fraudsters and raise awareness among the people about the risk and consequences of immigration fraud.

6. ***Decision***

Coming back to the present case in hand, wherein the petitioner has duped the complainant on the pretext of sending him abroad on work visa is another example of the immigration scams, which needs to be dealt sternly with iron hands. Furthermore, the petitioner's criminal history, marked by involvement in another similar case, raises serious concerns about the likelihood of reoffending. There is a distinct possibility that, if granted bail, the petitioner will once again partake in this unlawful enterprise. To grant bail at this stage would, in effect, subtly convey a tacit endorsement or unintentional encouragement of such nefarious activities.

In the light of above, the present petition stands dismissed with no order as to costs.

(SANDEEP MOUDGIL)
JUDGE

29.11.2024
Poonam Negi

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