

Balwinder Kumar

...Petitioner

vs.

State of Punjab

...Respondent

Coram : **Hon’ble Mr. Justice N.S.Shekhawat**

Present : Mr.Gaurav Partap Singh Pathania, Advocate
for the petitioner.

Mr. Mohit Chaudhary, AAG, Punjab.

Mr. Rajat Dogra, Advocate
for the complainant.

N.S.Shekhawat J. (Oral)

1. The petitioner has filed the present petition under Section 438 Cr.PC with a prayer to grant anticipatory bail to him in case FIR No. 154 dated 04.12.2023, registered under Section 420 of IPC and Section 24 of Immigration Act, Police Station Division No.2, District Pathankot.
2. The FIR in the present case was got registered on the basis of the statement made by Swaran Singh, complainant. The complainant alleged that a sum of Rs.15 lacs was taken by the petitioner illegally for sending his son abroad.
3. Learned counsel submits that as per the complainant, the petitioner had already returned a sum of Rs.5 lacs. Still further, without prejudice to his rights to raise his defence before the Trial Court, the petitioner has offered to deposit a sum of Rs.5 lacs with the trial Court/Area Magistrate, subject to outcome of the trial.

4. On the other hand learned State counsel assisted by learned counsel for the complainant has vehemently opposed the prayer made by learned counsel for the petitioner on the ground that the serious allegations have been levelled against the present petitioner and the petitioner is not entitled to concession of any relief.

5. I have heard learned counsel for the parties and perused the record.

6. As per the case of the complainant, the petitioner had already returned a sum of Rs. 5 lacs to the complainant and today, during the course of hearing, the petitioner has offered to deposit a sum of Rs.5 lacs with the Trial Court/Duty Magistrate, subject to outcome of the trial. Still further, the custodial interrogation of the petitioner at this stage, may not be required .

7. Consequently, the present petition is allowed. The petitioner is granted concession of anticipatory bail, subject to the conditions as provided under Section 438(2) of the Cr.P.C. It will be open for the Investigating Officer to call the petitioner to join investigation, if so required, by issuing a written notice in this regard and he shall abide by the conditions mentioned in Section 438(2) of the Cr.P.C. The present petitioner shall also abide by the following conditions:-

(i) The petitioner 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 to disclose such facts to the Court or to any other authority.

(ii) The petitioner shall remain present before the Court on the dates fixed for hearing of the case.

(iii) The petitioner shall not absent himself from the Court

proceedings except on the prior permission of the Court concerned.

(iv) The petitioner shall surrender his passport, if any, (if already not surrendered), and in case he is not holder of the same, he shall swear an affidavit to that effect.

(v) The petitioner shall also file his affidavit before the concerned IO/Arresting Officer, mentioning his ordinary place of residence and number of mobile phone, which shall be used by him during the pendency of the trial. In case of change of place of residence/mobile number, he shall share the details with the concerned Court/learned Trial Court.

(vi) In case, the petitioner is involved in any other criminal activity, during the pendency of the trial, it shall be viewed seriously.

8. In case, the petitioner violates any of the conditions mentioned above, it shall be viewed seriously and the concession of bail granted to him shall be liable to be cancelled and the prosecution shall be at liberty to move an application in this regard.

9. The petitioner shall deposit an amount of Rs.5 lacs with the Area Magistrate/Trial Court within a period of four weeks from today, subject to outcome of the trial. The concerned Court is directed to deposit the said amount in a fixed deposit in a nationalized bank fetching the maximum rate of interest.

(N.S.SHEKHAWAT)
JUDGE

24.01.2024
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Whether speaking/reasoned	:	Yes/No
Whether reportable	:	Yes/No