IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRM-M-64862-2023
Reserved on: 06.08.2024
Pronounced on: 30.08.2024

Varinder Jit ...Petitioner

Versus

State of Punjab …Respondent

CORAM: HON'BLE MR. JUSTICE ANOOP CHITKARA

Present: Ms. Komal Balain, Advocate
for the petitioner.

Mr. Sukhdev Singh, A.A.G., Punjab.

Mr. Baljinder Singh, Advocate
for the complainant.

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ANOOP CHITKARA, J.

FIR No.	Dated	Police Station	Sections
7	25.08.2023	NRI, District SBS Nagar	406, 420 UPC and 24 of Immigration Act

1. The petitioner apprehending arrest in the FIR captioned above has come up before this Court under Section 438 CrPC, 1973, seeking anticipatory bail.

2. Vide order dated 22.12.2023, a Co-ordinate Bench of this Court had granted interim anticipatory bail to the petitioner. The interim order was extended till 10.07.2024 when the matter was listed before this Court and a reply was sought on merits. On 24.07.2024, counsel for the complainant submits that the petitioner did not comply with the terms and conditions of the order on which he was granted interim bail. Be that as it may, this Court is drawing an independent analysis on petitioner’s entitlement to bail or not and would not be considering non-deposit of Rs.10 lacs as a ground to deny bail.

3. Facts of the case are being taken from reply dated 16.07.2024 filed by concerned DySP which reads as follows:-

> *“2. That the complaint was moved by Davinder Singh s/o Gurmeet Singh resident of 3081 W Princeton Ave APT 2019FresnoCA 93722 United States of America, to Additional Director General of Police, NRI Wing,Punjab, SAS Nagar which was entered at UID No. 2398740, dated 27.01.2023 wherein, he alleged that when the complainant*

came to India in December 2021 to his native village Ratanda, District SBS Nagar, then he met with the present petitioner and the petitioner was known to him from a long time and the petitioner told the complainant that he and his real brother (Raman Kumar), who is permanent resident of Canada have started the work of sending the workers to Canada on work permit and the petitioner also with full confidence told him of withdrawing the Visa from a Canadian Company as Ram Kumar (brother of the petitioner) is having good relations with the company's officials in Canada and also assured that the visa for work permit for Canada will be done quickly. Thereafter, the petitioner offered Rs. 10,00,000/- per person for getting the visa for work permit, then the complainant got fixed the deal with the petitioner for sending the five persons including his brother namely Talwinder Singh, his brother-in law Micheal Singh and Kuldeep Singh, Sandeep Kumar, Rupinder Bains for getting the visa for Canada on work permit and the total cost of Rs. 50,00,000/- was told by the present petitioner for sending these persons to Canada and further, complainant said that out of the above said amount, the Petitioner demanded a sum of Rs. 3,52,000/- per person as advance and Rs. 17,60,000/- was demanded by saying the fees for company in Canada. Furthermore, the complainant had alleged that he deposited the total amount of Rs.17,60,000/-in the bank account no. 008001508901, ICICI Bank, Nakodar Branch of the petitioner on different dates and the details of the same are as follows:-

i. Rs. 60,000/- transferred on 27.01.2022,
ii. Rs. 1,00,000/- transferred on 25.04.2022
iii. Rs. 3,50,000/- transferred on 26.04.2022
iv. Rs. 4,00,000/- transferred on 2.05.2022
v. Rs. 3,50,000/- transferred on 06.05.2022
vi. Rs. 2,60,000/- transferred on 11.05.2022
vii. Rs. 1,40,000/- transferred on 31.05.2022
viii. Rs. 1,00,000/- transferred on 19.07.2022.

Further, the complainant alleged that the petitioner had given time of 6 months for getting their work visa issued but after elapsing of 6 months the petitioner is giving excuses to the complainant and has also refused to pay back the money and now, the complainant has the apprehension that the petitioner will abscond abroad along with his family with their money. Lastly, the complainant has sought stringent action against the present petitioner.

3. That it is submitted that, on the basis of the complaint, an enquiry was conducted by the investigation agency and it was found that the complainant had fixed the deal with the petitioner for sending the five persons namely Talwinder Singh (brother of the complainant), Micheal Singh (brother-in law of the complainant) and

> *Kuldeep Singh son of Pritam resident of village Ratenda, SBS Nagar, Sandeep Kumar, Rupinder Bains (Nephews of the Complainant) sons of Harcharan Das resident of Dosanjh Khurd, SBS Nagar, to Canada. Then the petitioner demanded the amount of Rs. 10,00,000/- per person and the deal has been fixed for Rs. 50,00,000/- for sending all five of them to the Canada. Accordingly, the petitioner had transferred the total amount of Rs. 17,60,000/- on different dates on the asking of the petitioner, in the bank account no. 008001508901, ICICI Bank, Nakodar Branch of the petitioner. The Petitioner neither could make any arrangement of the Visas as assured by him nor is returning their amount and thus has committed fraud. Therefore, the present FIR has been registered against the petitioner."*

4. The petitioner's counsel prays for bail by imposing any stringent conditions and contends that further pre-trial incarceration would cause an irreversible injustice to the petitioner and their family.

5. The State opposes bail.

6. Petitioner seeks bail and has referred to following paragraphs of the petition which reads as follows:-

> *"3. That it is humbly submitted that the petitioner was in financial crises and due to which, the petitioner took friendly loan from the complainant at different intervals of time and the petitioner assured the complainant to return back the friendly loan within time alongwith interest. However, the petitioner could not arrange the money and could not return the said loan to the complainant within time.*
>
> *4. That thereafter, the complainant started threatening the petitioner to implicate him in false cases and then the petitioner arranged money of Rs. 10,00,000/- and requested the complainant that now he can only give Rs. 10,00,000/- and after some time, he will return his entire loan amount alongwith interest. However, the complainant refused to take the money and asked the petitioner to return all the money alongwith interest.*
>
> *5. That thereafter, the petitioner requested the complainant to give some more time and the petitioner assured that after arranging the money, he will return all his money alongwith interest. However, the complainant filed the present false case against the petitioner with false allegations, in fact that the petitioner has no connection or work of Immigration.*
>
> *6. That even now the petitioner is ready to return back the friendly loan amount in instalment alongwith interest to the complainant."*

7. State opposes the bail and has referred to para no.7 of the reply which reads as follows:-

> *"7. **Role of the Petitioner***
> *That it is submitted that the petitioner without having an Immigration License, in a very clever and cunning manner settled the deal with the complainant and had demanded the amount of Rs. 10,00,000/- per person for sending them to Canada on the work visa and the deal has been fixed for Rs. 50,00,000/- for five persons as stated above for sending them to Canada on work permit. As per the settled deal, the petitioner has received the amount of Rs. 17,60,000/- in his bank account on different dates and also failed to arrange for the work visas even after getting the amount from the complainant and then also refused to repay the amount back to the complainant. Even now as per the directions of this Hon'ble Court vide order dated 22.12.2023, the petitioner failed to deposit the amount of Rs. 10,00,000/- to the Investigating Officer."*

8. Counsel for the complainant submits that at the time when the complainant had left India, the people were still speaking the truth and making honest commitments. The complainant did not realize that in such short span of time, the moral values have fallen so down and some of the people have become so unethical and the complainant could not realise this and was cheated because of his ignorance. Counsel further submits that to his utter shock, a false and concocted story has been wrecked up and there was no reason for the complainant to advance money to the petitioner. Even if it has to be done, it has been done in one stroke and not in installments which contradicts the petitioner's version.

9. An analysis of the above arguments would lead to the outcome that there is transfer of money from the complainant's account in the account of the beneficiary. There is sufficient money trail which link and corroborates the complainant's version. The defence taken by the petitioner per se does not satisfy even beyond preponderance of probabilities and is not corroborative evidence. The petitioner did not tell a single reason that the complainant who is not resident of India would have taken the loan and what was the purpose for which the loan was required. Thus the stand of the petitioner is prima facie falsified.

10. The allegations pertain to cheating on assuring visa. Although the complainant also knew that they were paying money to get a Visa through illegal means, and undoubtedly, later on, cried foul, it is just like the kettle calling the pot black, but a con cannot seek bail because of the victim's stupidity. The sly way the petitioner and his accomplices conned, tricked, deceived, swindled, and defrauded the gullible complainant points towards the dangerous trend of the revival of thugee, and if not sternly dealt with now, it might upsurge, revisiting the history.

11. A perusal of the bail petition and the documents attached primafacie points towards the petitioner’s involvement and does not make out a case for bail. Any further discussions will likely prejudice the petitioner; this court refrains from doing so.

12. Any observation made hereinabove is neither an expression of opinion on the case's merits nor shall the trial Court advert to these comments.

13. **Petition dismissed**. Interim orders, if any, are recalled with immediate effect. All pending applications, if any, are disposed of.

(ANOOP CHITKARA)
JUDGE

30.08.2024
Jyoti Sharma

Whether speaking/reasoned: Yes
Whether reportable: No.