

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

105

CRM-M-60857-2024

DATE OF DECISION: 04.12.2024

KAMLA DEVI

...PETITIONER

Versus

STATE OF PUNJAB

... RESPONDENT

CORAM: HON'BLE MR. JUSTICE SANDEEP MOUDGIL

Present: Mr. B.D. Sharma, Advocate for the petitioner(s).

Mr. Jaspal Singh Guru, AAG, Punjab.

SANDEEP MOUDGIL, J (ORAL)

1. Relief Sought

This petition has been filed under Section 482 of the BNSS for grant of anticipatory bail in FIR no. 04 dated 07.01.2023 under Sections 406 and 420 of IPC read with Section 13 of the Punjab Travel Professionals (Regulation) Act, 2014 at P.S. Adampur, Police District Jalandhar Rural, District Jalandhar.

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

‘Complaint No.2590 dated 27.02.2021. To, Respected SSP, Jalandhar. Subject:- Complaint against No. (1). Kamla Devi wife of Sant Kumar @ Pamma Mobile No. 98729-35595 (2) Vishal Kumar son of Pamma Mobile No. 62836-47459 resident of Village and Post office Beas Pind, Near Amrit Vani Bhavan Udhopur Patti, Tehsil and District Jalandhar. (3). Sant Kumar alias Pamma son of Bihari Lal resident of VPO Beas Pind Near Amrit Vani Bhavan, Udhopur Patti, Tehsil and District Jalandhar and presently residing in Greece Mobile No.



306955307202. (4) Jass Travel Agent resident of Phagwara District Kapurthala Mobile No. 98785-655779 regarding defrauding the applicant of Rs. 9,50,000/- on the pretext of sending Narinder Singh son of the applicant to Greece and demanding more money for sending him further and when the money was not given, issuing threats to kill the son of the applicant. Sir, It is requested that I Ram Lubhaya alias Makhan son of Gurcharan Ram I am resident of village Sheetalpur Post Office Kala Bakra Tehsil and District Jalandhar and request as under: (1). That I am law abiding and peace loving Indian citizen and I am an agriculturist. (2) That the abovementioned Sant Kumar alias Pamma is my old acquaintance and he is living in Greece since long and his wife and son are on visiting terms with Kamlesh Kumari of Beas Pind who is my sister in brotherhood. I and the abovementioned persons No. 1 & 2 are also known to each other. (3) That in October 2021 I was visiting the house of Kamlesh Kumari who is my sister from brotherhood and the abovementioned persons No. 1 and 2 had also come there and during the talks, the abovementioned person No. 1 asked about the wellbeing of myself and my children and started pressurizing me to send my son Narinder Singh to Greece by saying that I know that her husband i.e. the abovementioned person No. 3 is making good earning in Greece. I did not agree with him and on the next day abovementioned accused persons No. 1 and 2 came to my house and started pressurizing me to send my son to Greece whereupon I came in their words and agreed to give passport and other documents of my son and they told me that they will get my son settled in Greece for which an expenditure of Rs. 9,50,000/- will be incurred. That her husband has also been sent to foreign country by an agent by the name of Jassa who is known to them and she will talk with him and her husband for sending our son to Greece very soon. At the first instance I should give Rs. 6,50,000/-, passport of Narinder Singh and



passport size photographs alongwith ID proofs. (5). That on 19.10.2021, while sitting at the house of my acquaintance Kamlesh Kumari, a sum of Rs. 6,50,000/- in cash was given in the presence of Kamlesh Kumari to the abovementioned persons No. 1 and 2 alongwith passport of Narinder Singh, passport size photographs and photocopies of ID proofs. 6. That on 24.10.2021 on the asking of the above said persons, abovementioned person No. 4 Jass Travel Agent by getting tourist VISA of my son, took away my son from our house for sending him abroad. On this, they initially sent my son to Dubai and thereafter on 26.10.2021 sent him from Dubai to Serbia and he remained in Serbia till 27.10.2021 and thereafter on 29.10.2021 abovementioned person No. 1 told me that a telephone has been received from abovementioned person No. 4 Jass Travel Agent that my son is at Serbia and in case we want to send our son to Greece, then we should pay the remaining amount of Rs. 3 lakhs today itself. On this, I while considering the better future of my son, without any delay made arrangements for the money and paid the balance amount of Rs. 3 Lakhs to the abovementioned persons No. 1 and 2. My son Narinder Singh used to give information in this regard to me on whatsapp. 7. That thereafter on 30.10.2021 my son gave a whatsapp phone call and told me that he has been kidnapped there and demand of 1000 Euros is being made from him and his passport has also been confiscated. On this, we contacted the abovementioned persons No. 1 and 2 but they did not give any satisfactory reply and rather said that we should tell our son that he should make arrangements of 1000 Euros and give it to the said persons. When we expressed our difficulty to the above said persons that we have already paid the money after borrowing it on interest, they did not listen to us and started saying that in case we want the life of our son to be saved, then we should make arrangements for the money and send it to accused No. 2 and they also threatened that in case money is not



given, then our son will not be found anywhere. Therefore I and my family remain worried about our son. In case any untoward incident happens to our son in future, then the abovementioned persons will be responsible for it. The abovementioned persons in connivance with each other have by entering into a conspiracy in the above manner have played fraud with us and put my son in danger. It is further requested that action as per law may be taken against the abovementioned persons and justice may be done to us. Thanking you'.

3. **Contentions**

On behalf of the petitioner

Learned counsel for the petitioner has argued that the petitioner has been falsely implicated in the present case and the only allegation qua the present petitioner is of having received Rs.6,50,000/- on behalf of the Jass Travel Agent on account of sending Narinder Singh son of the complainant to Greece. He further submits that the complainant had deposited Rs. 3,00,000/- on the asking of the Jass Travel Agent in bank account of one Gurjit Singh, son of Santa Singh and also in the bank account of the petitioner, therefore, the petitioner is not in picture in any manner directly or indirectly, except for the bald allegations made against him. It is categorically argued by counsel for the petitioner that the petitioner is neither beneficiary nor in any manner is involved in the alleged commissioning of the offence. He has further argued that a bare perusal of the FIR depicts that the complainant has relied upon the commitment and assurance made by Jass Travel Agent to get his son settled abroad in Greece.

On behalf of the State

Learned State Counsel appearing on advance notice on



instructions from ASI Umesh Kumar could not controvert the factual aspects as argued by the counsel for the petitioner, though he made an attempt to seek the custodial interrogation of the petitioner stating that she was closely associated with Jass Travel Agent and she has also played an active role in commissioning of the offence and there is possibility of duping various other persons like that of complainant and it is on that account, learned State Counsel opposes the prayer for grant of concession of anticipatory bail to the petitioner.

4. **Analysis**

Be that as it may, having regard to the fact that the petitioner has not been attributed any active role for commissioning of the offence and is not a beneficiary at all, in fact, Jass Travel Agent was the beneficiary of the amount received, more so, this Court is of the view that both the parties to the present dispute are equally responsible in view of the fact that Jass Travel Agent is not an authorized travel agent and being fully aware about this fact the complainant still took the risk under greed of settling his son abroad in Greece for which he has been made to suffer. Hence, considering the totality of the circumstances and also the facts presented before this Court, after hearing counsel for the parties the Court is of the view that no case for custodial interrogation is made out, at least against the petitioner who has admittedly not collected any money whatsoever nor anything is to be recovered from her. Hence, this Court finds no reason to deny the petitioner the concession of anticipatory bail, wherein the petitioner has bona fide intentions and is willing to join the investigation and cooperate for



furtherance of the same so that the final report can be submitted by the Investigating Agency within the stipulated time period.

5. **Decision**

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 one week 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 does not comply with the aforesaid direction of joining the investigation



within one week, the order passed by this Court today shall automatically stand cancelled.

The petition in the aforesaid terms stand allowed.

(SANDEEP MOUDGIL)
JUDGE

04.12.2024
anuradha

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