



\$~8

* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ **BAIL APPLN. 2850/2024**

LUKESH KUMAR

.....Petitioner

Through: Mr. Amit Chadha, Mr. Tarun Khanna,
Mr. Vivek Kataria and Mr. Harjas,
Advs.

versus

THE STATE (G.N.C.T. OF DELHI)

.....Respondent

Through: Mr. Amit Ahlawat, APP for the State
with SI Ashok Kumar, PS IGI
Airport.

CORAM:

HON'BLE MR. JUSTICE ANISH DAYAL

ORDER

03.10.2024

%

1. This petition has been filed seeking grant of anticipatory bail in FIR No.515/2024 registered under Sections 318(4), 336(3), 340(2) of BNS and Section 12 of Passports Act, P.S. IGI Airport, Delhi.
2. The case of the prosecution is that basis a complaint received from the Bureau of Immigration, Terminal 3, IGI Airport, Delhi, it transpired that there was a fake immigration stamp on Passport No. S7055490 of Parwinder Singh, resident of Punjab.
3. On 17th July, 2024, Parwinder Singh had arrived from Turkey as a deportee at IGI Airport via Flight No.TK-716. During arrival, it was found that the passenger had departed for Mexico via Turkey from IGI Airport, New Delhi. During transit in Turkey, he was denied onward boarding to Mexico, as the Mexican visa affixed on page No.14 of his passport, was



found to be counterfeit. The travel documents were handed over to the PS IGI Airport and the FIR was registered.

4. Later during interrogation, Parwinder Singh disclosed that he met with a person namely Arvinder@Arry during his college days who gave the mobile number of a person namely Sunny. Sunny with the help of the petitioner from Jalandhar arranged the counterfeit visa for Mexico. The deal was finalised for Rs.35 Lacs and passenger had paid Rs.10 Lacs in cash to the petitioner. He further disclosed that the petitioner's friend Anjali@Pallavi also helped the petitioner to take the boarding pass from Airlines and clear Immigration.

5. A raid was conducted at the house of the petitioner on 22nd July, 2024 but he was found absconding. Notice was received by his wife, in his absence, with directions to join investigation on 23rd July, 2024. However, he did not join investigation.

6. Later, as per the investigation, it transpired that the ticket of Parwinder Singh was booked by Riya Travel & Tour Pvt. Ltd. Jalandhar. They stated that the ticket was booked by Richi Travels. Richi Travels states that the petitioner had requested for booking of the tickets for the passenger and they had done so.

7. When the petition was presented on 13th August, 2024, this Court was not inclined to grant interim protection to the petitioner, as also on the subsequent date of 29th August, 2024. Subsequently on 10th September, 2024, the petitioner was granted interim protection subject to him joining and cooperating in the investigation.

8. As per the recent updated status report, it transpires that the petitioner did join the investigation on 12th September, 2024 and thereafter. He states



he was working in M/s Skyline and his brother-in-law was the owner of M/s Skyline. He stated that he had only handed over the alleged flight tickets to the passenger. He gave the international mobile number of Sunny but did not have any local mobile number or address details. He stated that he knew Pallavi since December 2023 who used to book flight tickets through him. His WhatsApp was not available and he had uninstalled his WhatsApp and changed his mobile phone. The older mobile phone is in the possession of Ankit, the proprietor of M/s Skyline.

9. As per the APP, there is clearly a syndicate working for counterfeiting visas and ensuring that their clients are ensured safe passage through India immigration. Needless to say, this is a serious issue which needs thorough investigation. As per the investigation carried out so far, Parwinder Singh disclosed that he gave his passport for organising the travel documents which ultimately came to the petitioner and Parwinder Singh travelled on that basis of that passport which was found to have a counterfeit Mexican visa. Investigation is required as to the procurement of the fake Mexican visa, which ultimately violates international protocol and security as well. Procurements of fake visas are serious issues which need to be investigated thoroughly, considering that there could be a chain of people and the syndicate, with international connects, which need to be revealed, in public interest.

10. One of the facts that the APP has brought out, is the Call Detail Records between the petitioner and his friend Pallavi, which shows that on the date of departure of 15th July, 2024 of Parwinder Singh, from India, the flight was departing at about 4:00 A.M. in the morning. There are numerous calls between the petitioner and Pallavi throughout between 1:25 A.M. till



10:00 A.M. and thereafter. These records, *prima facie*, reflect that there was consistent communication between petitioner and Pallavi (who, as per the disclosure of Parwinder Singh, helped him get through immigration at IGI airport), at and around 4 a.m., leading to an assumption that the petitioner and Pallavi were involved in the process of ensuring that Parwinder Singh leaves India with a passport having a fake Mexican visa. Pallavi has also not been called for investigation, so far. The investigation is in progress and the IO is following each lead.

11. Considering the facts and circumstances of this case, it would be important for the investigation to continue without the benefit of pre-arrest bail being granted to the petitioner.

12. The Supreme Court in the decision of ***State v. Anil Sharma***, (1997) 7 SCC 187 elucidated upon grant of pre-arrest bail *vis-a-vis* effective interrogation in the following words:

“6. We find force in the submission of the CBI that custodial interrogation is qualitatively more elicitation-oriented than questioning a suspect who is well ensconced with a favourable order under Section 438 of the Code. In a case like this effective interrogation of a suspected person is of tremendous advantage in disinterring many useful informations and also materials which would have been concealed. Success in such interrogation would elude if the suspected person knows that he is well protected and insulated by a pre-arrest bail order during the time he is interrogated. Very often interrogation in such a condition would reduce to a mere ritual. The argument that the custodial interrogation is fraught with the danger of the person being subjected to third-degree methods need not be countenanced, for, such an argument can be advanced by all accused in all criminal cases. The Court has to presume that responsible police officers would conduct themselves in



a responsible manner and that those entrusted with the task of disinterring offences would not conduct themselves as offenders.”

(emphasis added)

13. In **Ashok Kumar v. State (UT of Chandigarh)** 2024 SCC OnLine SC 274 where an FIR was registered under Sections 419/465/468/471/120B IPC and Section 7-C of Prevention of Corruption Act when both the Sessions and High Court did not grant anticipatory bail, the Supreme Court noted as under:

“12. There is no gainsaying that custodial interrogation is one of the effective modes of investigating into the alleged crime. It is equally true that just because custodial interrogation is not required that by itself may also not be a ground to release an accused on anticipatory bail if the offences are of a serious nature. However, a mere assertion on the part of the State while opposing the plea for anticipatory bail that custodial interrogation is required would not be sufficient. The State would have to show or indicate more than prima facie why the custodial interrogation of the accused is required for the purpose of investigation.

13. The appellant has assured this Court that as and when required to appear in future before the Investigating Officer, he would do so and cooperate in the investigation.

14. Without observing anything further, we set aside the impugned order passed by the High Court. We order that in the event of arrest of the appellant by the police in connection with the F.I.R. referred above, he shall be released on bail subject to terms and conditions that the Investigating Officer may deem fit to impose.”

(emphasis added)

14. Mr. Amit Chadha, counsel for the petitioner, states that the IO has not



investigated neither Arvinder nor Pallavi and that there is no allegation of non-cooperation by the petitioner in this matter.

15. The APP for the State, however, refutes the same and states that it is evident from the status report itself that the details of how and when the Mexican visa came to be on the passport, has not been disclosed by the petitioner.

16. Accordingly, in these circumstances, the petition is dismissed.

17. Order be uploaded on the website of this Court.

ANISH DAYAL, J

OCTOBER 3, 2024/MK