

(2021) 03 P&H CK 0306

High Court Of Punjab And Haryana At Chandigarh

Case No: Criminal Miscellaneous Petition (M) No. 32011 Of 2020(O&M)

Atama Singh

APPELLANT

Vs

State Of Punjab

RESPONDENT

Date of Decision: March 24, 2021

Acts Referred:

- Code Of Criminal Procedure, 1973 - Section 438
- Indian Penal Code, 1860 - Section 406, 420, 467, 468, 471
- Punjab Travel Professionals (Regulation) Act, 2014 - Section 13
- Immigration Act, 1983 - Section 24

Hon'ble Judges: H.S.Madaan, J

Bench: Single Bench

Advocate: T.S. Manes, J.S. Ghuman

Final Decision: Dismissed

Judgement

H.S. Madaan, J

Case taken up through video conferencing.

This petition under Section 438 Cr.P.C. for pre-arrest bail has been filed by the petitioner " Atama Singh, aged about 45 years, resident of village

Lakhan Ke Padda, presently residing at Ravidass Nagar, Subhanpur, Kapurthala, an accused in FIR No.02 dated 1.1.2020, under Sections 406, 420

IPC, Section 13 of Punjab Travel Professionals (Regulation) Act, 2014 and Section 24 of Immigration Act, 1983, registered with Police Station Sadar,

Banga, District Shaheed Bhagat Singh Nagar. Briefly stated, the facts of the case as per the prosecution story are that complainant Paramjit Singh

son of Rawal Singh wanted to send his son Parminder Singh to Canada and he discussed this matter with his relative Sulakhan Singh, who told him that he was acquainted with a travel agent, namely, Atama Singh (present petitioner); thereafter the complainant contacted Atama Singh and the latter assured the former that he would send his son to Canada and the deal was struck for Rs.22,50,000/-; initially Rs.50,000/- along with passport of Parminder Singh were handed over to Atama Singh, followed by a payment of Rs.2 lakhs on 4.9.2018 and Rs.10 lakhs on 20.9.2018, however, the petitioner/accused handed over passport of Parminder Singh with visa to the complainant but the said visa was found to be fake; the complainant asked the petitioner to return his money but to no effect. On matter being reported to the police by the complainant Paramjit Singh, formal FIR was recorded.

Apprehending his arrest in this case, the present petitioner had approached the Court of Sessions at SBS Nagar seeking grant of pre-arrest bail by filing an application, however, his such application was dismissed by learned Sessions Judge, SBS Nagar vide detailed order dated 23.9.2020. As such, the present petitioner has come to this Court by way of filing the instant petition praying for the similar relief, which request is being opposed by the State counsel.

I have heard learned counsel for the parties besides going through the records.

Pre arrest bail is a discretionary relief and is to be granted in exceptional cases and not in routine. It is meant to save the innocent persons from harassment and inconvenience and not to screen the culprits from arrest and custodial interrogation.

The allegations against the petitioner are quite serious and grave of defrauding an innocent person of substantial sum of Rs.12,50,000/- on the pretext of ensuring migration of his son to Canada and then handing over passport with fake visa. Such act of the petitioner/accused cannot be taken in a light manner, rather he needs to be dealt with firmly and strictly.

Learned counsel for the petitioner has contended that the petitioner is not a travel agent but a photographer and he has been wrongly involved in this case; as a matter of fact, he himself is a sufferer having lodged FIR No.155 dated 3.10.2019, under Sections 406, 420, 467, 468, 471 IPC and Section

24 of Immigration Act, 1983 with Police Station Subhanpur, District Kapurthala against Lucky @ Lakhi, his wife, Sonu and his wife, therefore he be granted concession of pre-arrest bail.

Whereas learned State counsel has contended that petitioner is a travel agent, who has duped the complainant of lakhs of rupees and now he wants to save his skin coming up with a plea that he is a photographer and not a travel agent; he has committed offence of cheating and fraud and his custodial interrogation is necessary.

After hearing the rival contentions, I find that petitioner is specifically named in the FIR and there are clear allegations of his having defrauded the complainant of a sum of Rs.12,50,000/- on the pretext of sending his son to Canada without actually being able to do so and rather handing over passport with fake visa to the complainant.

The custodial interrogation of the petitioner is found to be necessary to find the material facts with regard to his such criminal actions and to effect recovery of money given to him by the complainant and to know the modus operandi of the fraud and other persons, who might have been similarly cheated and defrauded by him. In case custodial interrogation of the petitioner is denied to the investigating agency that would leave many loose ends and gaps in the investigation affecting the investigation being carried out adversely, which is not called for.

As regards the plea that the petitioner/accused himself is a sufferer that also does not come out to be convincing because if he has been subjected to some fraud or cheating that does not mean that he gets a licence to do the same with other innocent persons.

In case of State represented by the C.B.I. Versus Anil Sharma, 1997(4) R.C.R.(Criminal) 268, Hon'ble Apex Court had observed that custodial interrogation is qualitatively more elicitation orientated than questioning a suspect who is on anticipatory bail, in a case like this interrogation of suspected person is of tremendous advantage in getting useful informations.

Finding no merits in the petition, the same stands dismissed accordingly.

It may be mentioned here that nothing discussed hereinabove shall have any bearing on the merits of the case.