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IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRM-M-57256-2024

Decided on : 21.01.2025

Rajat Kumar Soni

. . . Petitioner

Versus

State of U.T. Chandigarh

. . . Respondent

CORAM: HON'BLE MS. JUSTICE KIRTI SINGH

Present : Mr. Rahul Sidher, Advocate
for the petitioner

Mr. Ankur Bali, Addl. P.P. for U.T. Chandigarh

KIRTI SINGH, J. (Oral)

1. This is the second petition filed under Section 482 of BNSS for grant of anticipatory bail to the petitioner in case FIR No.137 dated 29.08.2024, under Sections 409, 420, 120-B IPC (Sections 467, 468, 471 IPC added later on) registered at Police Station South, Sector 34, Chandigarh.

2. Vide order dated 06.011.2024, the first petition for grant of anticipatory bail to the petitioner bearing No. CRM-M-46332-2024 was dismissed as withdrawn with liberty to file afresh with better particulars

3. The contents of the above-mentioned FIR are reproduced herein below:-

“To The SSP UT, Chandigarh Subject: Complaint against Rajat, Tanya, Kuldip. Arav, Ruby, and others of Great Times Enterprises, SCO No. 215-216, 3rd Floor Sector-34, Chandigarh Sir, It is



submitted that 1, J Kasinathan S/o Jokkuttevar R/o 15/2, Shanmuga Street, Vailuvar Colony, Pechikulam, Ma Reserve Lines, Madurai North, Tamil Nadu, PIN-625014 want to state that I am an army veteran. I want to state as under 1 That my following relatives and known were eager to go to Canada in search of employment 1 Asimghori Fazullullea Khan Ghorii (ii) Sittandi Annand Kumar (iii) Harrish Muthramalingam IV Elangovan Arumugam 2 That, my known Asmghori Fazullulica Khan Ghorii contacted Great Times and they assured to provide the work permit for Canada and asked to first transfer Rs. 11 lacs. On her assurance, I transferred Rs. 11 lacs from my account to the account provided by Tanya Detail is as under My Account detail A/C No 62182610003059 (IFSC-CNRB0016218) Syndicate Bank Canara Bank, BIBI Kulam Madurai-625014, Tamilnadu The detail of account no, in which I transferred Rs. 11 lacs on 05.04, 2024 A/c No 2211243544435790 IFSC-AUBL0002435 AU Small Finance Bank 3. 1, along with my above mentioned relatives came to Chandigarh on 12th April 20241 Chandigarh and met to Rajat, Kuldip and Tanya. They asked to deposit Rs 2.80 lacs more amount, I transferred Rs. 2.80 lacs in the same account Then they provided us the visa. But these visa were tourist visa of all my relatives for Russia. I denied for tourist visa But they assured us that after 15 days they will provided work visa at Russia. So, upon their assurance I send Asimghori Fazullulica Khan Ghorii and Elangovan Arumugam to Russia. But at Russia no work was provided to them So they came back to India When I asked to refund my money they refused to refund it The above mentioned persons cheated us on the pretext to provide us the work permit for Canada, but they provided us tourist visa for Russia. When I asked them to refund my money they refused to refund it. So kindly take legal action against Rajat, Tanya, Kuldip, Arav, Ruby, and others of Great Times Enterprises, SCO No. 215-216.3 Floor Sector-34, Chandigarh J Kasinathan S/O Jokkuttevar Rio 15/2, Shanmuga Street, Valluvar Colony, Pechikulam, Ma Reserve Lines, Madurai North, Tamil Nadu. PIN-

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625014 9791969902. Abovesaid complaint bearing ICMS/2024/021013 dated 23.07.2024 submitted by J Kasinathan S/O Jokkethevar R/O House No. 15/2, Shanmuga Street, Valluvar Colony. Pechikulam Ma Reserve Lines, Madurai North, Tamil Nadu PIN 625014 has received in Police Station through post. After enquiry conducted by Senior Officer a case /FIR No. 137, dated 29.08.2024 U/S 409,420,120-B IPC is registered PS 34 Chandigarh against Rajat, Tanya. Kuldip @ Sameer and Arav of Great Times Enterprises SCO NO. 215-216, 3rd floor Sector 34 Chandigarh.”

4. Learned counsel for the petitioner submits that the petitioner runs M/s Great Time Enterprises which only facilitates the documentation services to their clients for getting Visa for different countries and the company does not work as agent or Franchisee for any of the Embassy for consultancy of any country. The petitioner had agreed to facilitate the documentation services for obtaining Visa for 07 clients of the complainant for which he charged Rs. 3 lacs per person and the complainant transferred Rs. 11 lacs in the account of the petitioner. Subsequently, the petitioner provided visa to all 07 persons, however, only 02 persons decided to go to Russia while rest of them decided to apply for Visa for Canada and demanded a refund. The petitioner charged Rs. 6,00,000/- for sending two persons to Russia and after deducting the cancellation charge, made a refund of Rs. 4,10,000/- on account of cancelled Visas which was transferred into the account of complainant. On 26.04.2024, no dues agreement was executed between the complainant and petitioner, which was duly signed and notarized. He further submits that the petitioner has been falsely implicated in the present case and there is an inordinate delay of 08 months in lodging he FIR.

5. *Per contra*, learned State counsel while relying upon reply dated

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09.11.2024 submits that during investigation it came on record that the complainant had transferred a sum of Rs. 11.9 lacs to an account, details of which were provided by co-accused Tanya and belonged to the present petitioner. Further, a sum of Rs. 2 lacs was paid in the form of cash. Vide letter dated 10.08.2024, the investigating agency requested to freeze the debit transactions of the account of the petitioner. The petitioner, despite various opportunities, has failed to join the investigation. He further submits that the firm 'Great Times Enterprises' having its office at SCO No. 215-216, 3rd Floor, Sector 34 A, Chandigarh is neither registered with the Ministry of External Affairs nor is verified by Chandigarh Police. Instead of providing work permit visa for Canada, the accused persons have provided a tourist visa for Russia and as such, the present FIR was registered against the petitioner and co-accused Tanya, Kuldip @ Sameer and Arav. During the course of investigation, certified copy of account statement of the petitioner was obtained, a perusal of the same revealed that the amount, as stated by the complainant was credited to his account, however, the petitioner has till date refunded a sum of Rs. 3,35,000/- to the complainant. The complainant has produced agreement dated 26.04.2024 and also, documents as provided by the accused persons to the complainant, on the basis of the said documents and contents of the agreement, Sections 467, 468 and 471 of Indian Penal Code 1860 were added against the accused persons vide DDR No.52 dated 30.09.2024. The Investigation of the case is in progress and all the accused persons including the petitioner are yet to be arrested. The investigation conducted so far reveal direct role of the petitioner as entire amount was credited to bank account of the petitioner. Further five separate complaints have been received against the petitioner and other co-accused on similar set of allegations at Police Station Sector



34, Chandigarh and statements of the complainants in the said complaints have been recorded.

6. Heard the rival submissions made by learned counsel for the parties and perused the record.

7. In ***Srikant Upadhyay and others vs. State of Bihar and another, 2024 (INSC) 202 (SC)***, Hon'ble Supreme Court held as under:

*“It is thus obvious from the catena of decisions dealing with bail that even while clarifying that arrest should be the last option and it should be restricted to cases where arrest is imperative in the facts and circumstances of a case, the consistent view is that the grant of anticipatory bail shall be restricted to exceptional circumstances. In other words, the position is that the power to grant anticipatory bail under Section 438, Cr.P.C. is an exceptional power and should be exercised only in exceptional cases and not as a matter of course. Its object is to ensure that a person should not be harassed or humiliated in order to satisfy the grudge or personal vendetta of the complainant. (See the decision of this Court in *HDFC Bank Ltd. v. J.J.Mannan & Anr. 2010 (1) SCC 679*).*

*Further, it was clearly observed in para No. 24 of the judgment (supra) that “**though in many cases it was held that bail is said to be a rule, it cannot, by any stretch of imagination, be said that anticipatory bail is the rule.** It cannot be the rule and the question of its grant should be left to the cautious and judicious discretion by the Court depending on the facts and circumstances of each case. While called upon to exercise the said power, the Court concerned has to be very cautious as the grant of interim protection or protection to the accused in serious cases may lead to miscarriage of justice and may hamper the investigation to a great extent as it may sometimes lead to tampering or distraction of the evidence. We shall not be understood to have held that the Court shall not pass an interim protection pending consideration of such application as the Section is destined*



to safeguard the freedom of an individual against unwarranted arrest and we say that such orders shall be passed in eminently fit cases. At any rate, when warrant of arrest or proclamation is issued, the applicant is not entitled to invoke the extraordinary power. Certainly, this will not deprive the power of the Court to grant pre-arrest bail in extreme, exceptional cases in the interest of justice. But then, person(s) continuously, defying orders and keep absconding is not entitled to such grant.”

8. In ***Sushila Aggarwal v. State (NCT of Delhi) (2018) 7 SCC 731***, the Constitution Bench reaffirmed that when considering applications for anticipatory bail, courts should consider factors such as the nature and gravity of the offences, the role attributed to the applicant, and the specific facts of the case.

9. In ***Siddharam Satlingappa Mhetra v. State of Maharashtra & Ors. reported in (2011) 1 SCC 694*** rendered in the context of the discretion to grant Anticipatory Bail under Section 438, Hon’ble Supreme Court advocated the need to balance individual personal liberty with societal interest and observed:-

“84. Just as liberty is precious to an individual, so is the society’s interest in maintenance of peace, law and order. Both are equally important.”

10. There are serious allegations levelled against the petitioner. A perusal of record reveal that the petitioner had received money to his bank account and five complaints have been received against the petitioner and other co-accused on similar set of allegations. Accordingly, to unearth the true dimension of the alleged crime, this Court does not deem it appropriate to interfere in the matter so as to grant the concession of anticipatory bail to the petitioner at this stage.

11. The petition is dismissed.

12. Needless to mention that the observations made hereinabove shall not



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be construed as an expression of opinion on the merits of the case.

13. Pending application(s), if any, also stands disposed of accordingly.

**(KIRTI SINGH)
JUDGE**

January 21, 2024

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Whether speaking/reasoned
Whether reportable

Yes/No
Yes/No