



CRM-M-20769-2024

220

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRM-M-20769-2024

Date of Decision: 09.05.2024

Vijender

...Petitioner

Versus

State of Haryana

...Respondent

CORAM: HON'BLE MR. JUSTICE ANOOP CHITKARA

Present: Mr. Gaurav Tyagi, Advocate
for the petitioner.

Mr. Rajat Gautam, Addl. A.G., Haryana.

ANOOP CHITKARA, J.

FIR No.	Dated	Police Station	Sections
779	09.12.2023	Gharaunda, District Karnal, Haryana	426, 420, 120-B IPC, 1860

1. The petitioner incarcerated in the FIR captioned above has come up before this Court under Section 439 CrPC seeking bail.

2. In paragraph 26 of the bail petition, the accused declares that he has no criminal antecedents.

3. Petitioner's counsel prays for bail by imposing any stringent conditions and are also voluntarily agreeable to the condition that till the conclusion of the trial, the petitioner shall keep only one mobile number, which is mentioned in AADHAR card, if any, and within fifteen days undertakes to disconnect all other mobile numbers. The petitioner contends that custodial interrogation and pre-trial incarceration would cause an irreversible injustice to the petitioner and family.

4. The State opposes bail.

REASONING:

5. Prosecution case is being taken from status report dated 09.05.2024 filed by concerned DySP which reads as under:-

"2. That brief facts of the case are that on 09-12-2023, SI Shyam Sunder was present at the Police Station, he



CRM-M-20769-2024

received complaint submitted jointly by Rishipal son of Mehar Singh, Virender son of Vijay, Rakesh Kumar son of Amarnath and Siya son of Kali Ram addressed to Superintendent of Police Karnal. It was stated in the complaint that they came in contact with Parveen son of Ranbir Singh resident of Kurukshetra; who told them that he would send their children abroad and he has links with several officers and politician; he can get the work permit for Canada and procure a job; the future of children would be bright; they all fell for his words; Vijender was also present with Parveen; Vijender told that they had already sent about 500 children abroad: Parveen and Vijender are both Principal at Gurukul Pundri; they both got acquainted them with a man at Karan Lake; the name of that man they disclosed as Rajinder resident of Mohali; they were told that Rajinder is owner of R.D. Enterprises that children would be send abroad within three months; the payment was to be made at the earliest; if the payment is made today then the process would be initiated today itself or else the matter would be delayed. Upon faith on all three of them; complainant Rishipal transferred an amount of Rs.50,000/- by Google Pay on 19.08.2022; Rs.50,000/- by Google Pay on 20.08.2022; Rs.2,00,000/- through cheque bearing no.000458; Rs. 12,00,000/- through RTGS on 29-08-2022 from account no. 915030038741782 in the name of Parveen; Rs.60,000/- by Google Pay on 14.06.2023; Rs.15,000/- by Google Pay on 15.06.2023 in the name of Parveen Kumar (son of Raghbir Singh) account no.17160001020450025; Rs.5,00,000/- cash on 10.08.2023 to Vijender resident of Kurukshetra; complainant Virender transferred Rs.2,00,000/- through RTGS on 06.09.2022; Rs. 2,00,000/- through RTGS on 27-09-2022 and, complainant Rakesh transferred Rs.2,00,000/- through RTGS on 22-07-2022; Rs. 1,00,000/- through cheque on 18-08-2022, Rs.90,000/- through Google pay on 26.08.2022; Rs.10,000/- through Google pay on 27.08.2022 in the name of Parveen son of Raghbir account no.17160001020450025; complainant Siya Ram transferred Rs.5,00,000/- through RTGS on 18.08.2022 in the account of R.D. Enterprises A/C 10080808292, total amount of Rs. 3375000/- was given to these peoples; they committed cheating with us; they used to take the complainant and others to Chandigarh several times and used to state that work would be done; in this manner they made complainant and others run from the pillar to post; these people are indulge in 'kabootarbazi' and usurp people's money; when they demanded their money back; they gave threat of life and stated that they would be done to death and thrown to a place where the police would not be able to trace out; legal action may be taken. On this complaint, a case bearing FIR No. 779 dated 09.12.2023 U/S 406/420 of IPC Police Station Gharaunda was registered against the petitioner/accused Vijender and his co-accused Parveen and



CRM-M-20769-2024

Rajinder.

3. That after registration of the case, investigation was carried out by SI Shyam Sunder. During the course of investigation on 12.12.2023, bank statements of account bearing no. 915030038741782 pertaining to the complainant Rishi Pal was obtained from Axis Bank Gharaunda and same was taken into the police possession vide recovery memo. Statement of witnesses were recorded. On 13.12.2023 bank statement of account no.20680100004162 pertaining to complainant Virender son of Vijay was obtained from Federal Bank Gharaunda and same were taken into the police possession vide recovery memo. Bank account statement of complainants Rakesh son of Amar Nath and Siya Ram were also obtained from HDFC Bank Munak. On 15.12.2023, statement of complainant Rishi Pal, Virender and Siya Ram was recorded under section 161 Cr.P.C. On 17.12.2023, complainant Rakesh was joined in the investigation and his statement was recorded under section 161 Cr.P.C. On 18.12.2023, the bank account statement of account no.10080808292 IDFC Bank, Gharaunda in the name of R.D. Enterprises was obtained and taken into the police possession vide seizure memo.

4. That on 30.12.2023 present petitioner Vijender was joined in the investigation and arrested. On 31.12.2023 petitioner/accused Vijender made his disclosure statement admitting his involvement in the present case, in furtherance of which he got recovered Rs. 20,000/- from his residential house at Kurukshetra. The amount was taken into police possession in the presence of prosecution witnesses. After completion of investigation, challan against the petitioner/accused was submitted in the Ld. Court on 27-02-2024 and is now fixed for hearing on 17-05-2024 for charge.

5. That co-accused Parveen did not joined with investigation despite and LOC was issued against him. On 08-03-2024, upon return from Motives Dubai, he was detained by the immigration Department at Hyderabad Airport. At the time of his arrest, a mobile was recovered in which the name of complainant Rishipal had been saved and their whatsapp chat was also found. Co-accused Parveen also suffered disclosure statement admitting his involvement in the present case and in pursuance thereto, cash amount Rs. 10,000/- was recovered at his instance. On 20-03-2024, statement of account no. 50100623119420 pertaining to Reenu wife of Parveen (accused) was obtained. The amount of Rs. 5 lacs paid by complainant Siya Ram in the account of RD Enterprises was stated to be received back in this account. On 03.04.2024, statement of account no.50100162023772 pertaining to petitioner/ accused Vijender was obtained from HDFC Bank Gharaunda and same was taken into the police possession alongwith certificate under section 65-B vide seizure memo.



CRM-M-20769-2024

6. *That on 08.04.2024, the investigation of the case was verified by Inspector Sri Bhagawan, Station House officer Gharaunda, who during the course of verification found that co-accused Rajinder was innocent. As per disclosure statement of accused Parveen a firm by the name BW Consultancy, Sector-70, Mohali has been found involved, who are yet to be joined with investigation. Apart from this, Reenu wife of accused Parveen is also to be joined in the investigation."*

6. Petitioner seeks bail on the following grounds:-

"i. Petitioner is being implicated in the case on the ground that he is the friend of the main accused Parveen who used to take money from people in order to send them to abroad, and in this way the accused persons have taken money from the people and have not sent them to abroad nor returned their money. Complainant has lodged the FIR against the petitioner on the pretext that Rs.5 Lakh cash was given to the petitioner which has not been returned.

ii. The petitioner has not received any money nor he knows the complainant persons. No such recovery has been effected from the petitioner except for Rs.20,000/- which is planted and cannot be said to be huge or connected to the alleged offence. The petitioner is not connected to the people and the alleged offences in any manner.

iii. The petitioner is a government teacher and Ph.D degree holder, who has his family to look after. He is in custody for almost 4 months now and the offences are triable by Magistrate and challan has been presented.

7. State counsel opposed the bail by referring to para no.9 of the status report which reads as follows:-

*"9. A. **Role of the petitioner:** In the present case, the role of the present petitioner is that he acting conjointly with co-accused, they made dishonest inducements to the complainants to send their children abroad and that accused would obtain work permit and would procure job for the children of the complainants; the present petitioner/accused portrayed that about 500 children were sent abroad in this manner and cheated them of valuable consideration amount to the tune of Rs. 33,75,000/-. Thus, the present petitioner actively participated in design to dupe and cheat the complainants.*

*B. **The evidence against the petitioner:** During the course of investigation sufficient incriminating evidence came on file against the present petitioner. The present petitioner Vijender is*



CRM-M-20769-2024

named in the FIR as one of the main culprit, who made dishonest inducements to the complainants and cheated them of their hard earned money. There are specific allegations regarding money given to petitioner/accused. He is direct beneficiary of consideration amount of Rs. 5 lacs paid to him in cash on 10-08-2023 and recovery of Rs. 20,000 was also effected from him in pursuance of his disclosure statement. Co-accused Parveen has transferred total amount of Rs. 2,75,800/- to the account of petitioner/accused during the period from 01-03-2023 to 15-06-2023, whereas even the amount deposited towards fee in Canadian Embassy for sending children abroad to the tune of Rs. 2,36,267/- had also been found transferred from his bank account. Thus reveals that the petitioner/accused apart from being a government teacher, is also involved in the work of sending people abroad. After investigation, on finding complicity of the petitioner/accused for the grave offences under section 406, 420 IPC, challan against him for the commission of said offences has been submitted in the Id. Court."

8. An analysis of the above submissions does point out that the prosecution has gathered sufficient evidence pointing out towards petitioner's role and the petitioner is not entitled to bail on merits.

9. The allegations pertain to cheating on assuring visa under the garb of payment of money. 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 thuggee, and if not sternly dealt with now, it might upsurge, revisiting the history.

10. Any further discussions are likely to prejudice the petitioner; this court refrains from doing so. A perusal of the bail petition and the documents attached prima facie points towards the petitioner's involvement and the gravity of the offense does not entitle the petitioner to bail at this stage. However, since the petitioner has been in custody for almost five months, he shall be entitled to file bail either before the Trial Court/Sessions Court or before this Court, after completing six months of total custody, if the trial is not concluded during such period. It is clarified that the petitioner shall not seek any adjournment; if he does so, the time for which the matter shall be adjourned shall not be counted for the purpose mentioned above.

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



CRM-M-20769-2024



12. Petition dismissed. All pending applications, if any also stands disposed.

**(ANOOP CHITKARA)
JUDGE**

09.05.2024
Jyoti Sharma

Whether speaking/reasoned: Yes
Whether reportable: YES.