State Vs. Jai Chand Rai

Present: Sh. HS Sandhu Advocate, counsel for the accused/ applicant
Sh. Anshuman Syal, Addl. PP for the State, assisted by Sh. GS Brar Advocate.

ORDER

Heard on the application for bail under Section 438 of CrPC (482 of BNSS), moved on behalf of accused/ applicant, namely Jai Chand Rai son of Shiv Dayal, in the case bearing FIR No. 85, dated 30.07.2024, under Section 420, 465, 467, 468, 471 and 120-B of IPC, Section 13 of Punjab Travel Professional (Regulation) Act, 2014 and Section 24 and 25 of Immigration Act, 1983, PS Badhni Kalan, District Moga.

2. Notice of the application was served upon the State and record of the police was requisitioned.

3. In brief, the facts as emanate from the First Information Report are as under:-

Complainant Jiwan Singh son of Pritpal Singh, resident of Badhni Kalan owned Kissan Filling Station, Petrol Pump, situated at Village Lopon and with an intention to shift Canada permanently, in the month of December, 2023, he came in contact with Sonia Tayal in the office of Time To Fly Education Consultants, Moga, where Manav Bansal and Reena Goyal were also the partners and the complainant was assured of investment/ business visa at the earliest for the entire family for permanent immigration to Canada, for which, 5 Lakh Canadian dollars, in other words, Indian Currency to the tune of Rs. 50 lakh per person and thus, the amount of Rs. 3 crore for six members was demanded, out of which, some of the amount was to be paid in advance and the remaining upon shifting to Canada. Accused persons, namely Sonia Tayal, Manav Bansal, Palak Bansal, Reena Goyal, Varun Tayal, Aman Tayal, Jai Chand Rai Goyal and Rajesh Mohan Gupta demanded passports of complainant Jiwan and his father Pritpal and the documents of their remaining family members, namely Prinka wife of Jiwan, Manika daughter of Jiwan, Shivans son of Jiwan and Jaishri, mother of complainant Jiwan for making of their passports, which were handed over to them and the complainant was further informed by the accused persons that they had six business firms/ concerns, under the name and style Times To Fly Education Consultants, Time To Fly Finance Consultants, Time To Fly Airlinks, Time To Fly Immigration Consultants, RS Financial Works and Joshi Finance and they could receive the amount in the accounts of any of these firms/ business concerns. Thereby, at the asking of the accused persons, complainant transferred an amount of Rs. 19 lakh from the savings account in the name of his wife Priyanka with HDFC bank bearing No. 50100208250232 on 29.12.2023 to the account No.7373935041 with Indian Bank, Moga in the name of Time To Fly Financial Consultants, Moga and the said account was in the name of Palak Bansal. Then, at the asking of the accused persons, named above, complainant transferred another amount of Rs. 9 lakh on 01.01.2024 from his account No.00000065226464522 with SBI Branch, Badhni Kalan to account No.7673935041 in the name of Time To Fly Financial Consultants, Moga. Then, at the asking of the accused persons, named above, complainant transferred another amount of Rs. 6 lakh on 10.01.2024 from the savings account in the name of his wife Priyanka with HDFC Bank Branch Badhni Kalan bearing No. 50100208250232 in the account No.7673935041 of Time To Fly Financial Consultants, Moga. Then, at the asking of the accused persons, named above, another amount of Rs. 25 lakh was transferred on 16.01.2024 from the account No. 00000065226464522 with SBI, branch Badhni Kalan to the account No.7673935041 in the name of Time To Fly Financial Consultants, Moga. Then, accused Shifu Goyal and Palak Bansal, owners/ proprietors of Time To Fly Financial Consultants, Moga met complainant Jiwan and on the pretext of sending him and his family members to Canada demanded more amount, whereby, another amount of Rs. 5 lakh was transferred on 16.01.2024 from the account No.50100208250232 in the account No.75987705770 with Indian Bank, Moga in the name of Joshi Finance Company, Moga. In this way, the accused persons, named above, received the amount of Rs. 64 lakh through bank transfers in their favour on the pretext of sending the complainant and his family members to Canada and they even, produced an LMIA for work permit to the complainant. Thereafter, the accused persons, named above, demanded cash amount from the complainant and when he expressed his inability to make any payment in cash, they (accused persons) demanded balance amount in kind, of petrol and diesel from the petrol pump of the complainant with the assurance to adjust the amount at the time of settlement of the account and in this way, during the period from 25.01.2024 to 30.04.2024, the accused persons, named above, accepted petrol and diesel from the petrol pump of the complainant through different people, valuing to the tune of Rs. 96 lakh. Thereafter, whenever asked about the status of their case to go Canada, the accused persons failed to give any satisfactory reply, rather they made one excuse or the other and thereby, a suspicion arose in the mind of the complainant and when questioned in this regard, the accused persons stated that their visa was received and they handed over a PPR letter with his passport to him, which he further handed over to Bittu Fax STD PCO, Moga for forwarding the same to Canadian Embassy. Shortly, thereafter, the complainant, namely Jiwan received a call from Bittu Fax STO PCO, Moga that the PR letter handed over to him was fake and he returned the PPR letter and passport to the complainant by giving a writing on his letter pad. Thereafter, complainant started pressurizing the accused persons for return of the amount paid and the accused persons in furtherance of their connivance and conspiracy with each other, handed over a cheque bearing No. 664617 dated 04.05.2024 drawn on Indian Bank, Moga for an amount of Rs. 20 lakh, another bearing No. 664619 dated 08.05.2024 for an amount of Rs. 20 lakh, third bearing No.664618 dated 13.05.2024 for an amount of Rs. 20 lakh, fourth bearing No.000555 dated 20.05.2024 for an amount of Rs. 20 lakh and fifth bearing No.000505 dated 27.05.2024 for an amount of Rs. 20 lakh with an assurance of encashment with presented, but all the said cheques were returned dishonoured by the banker of the complainant. Finally, when contacted, the accused persons, namely Sonia Tayal, Manav Bansal, Palak Bansal, Reena Goyal, Shifu Goyal, Varun Tayal, Aman Tayal, Jai Chand Rai Goyal and Rajesh Mohan Gupta refused to return the amount, rather started threatening the complainant.

4. I have heard the arguments addressed by both the parties.

5. Counsel for the accused/ applicant argued that he is innocent and he has been falsely implicated in the present case and he has nothing to do with the alleged offence and the complainant Jiwan is in close relations with high profile bureaucrats and politicians and the police is working as a puppet in the hands of the complainant and the allegations against the accused/ applicant are of general nature and the contents of the FIR transpire that the accused/ applicant has been dragged into litigation by the complainant with the help of the police with the purpose to blackmail him and neither any amount either by way of cash amount or through bank transactions was received by the accused/ applicant and no payment was made. He further argued that the accused/ applicant is ready to join the investigation. Thereby, a prayer for grant of pre-arrest bail was made.

6. On the other hand, Additional PP for the State prayed for dismissal of the application, while submitting that the matter is of serious nature, wherein, discretion of granting the benefit of anticipatory bail can not be exercised.

7. I have considered the submissions from both the sides and have gone through the material on record.

8. The allegations as emanate from the First Information Report are that the accused persons, namely Sonia Tayal, Manav Bansal, Palak Bansal, Reena Goyal, Varun Tayal, Aman Tayal, Jai Chand Rai Goyal, Rajesh Mohan Gupta and Sifu Goyal, in furtherance of their connivance and criminal conspiracy with each other, fraudulently received the amount of Rs. 1 crore and 60 lakh through different bank transactions and in kind, of petrol and diesel, from the

complainant on different dates, on the false pretext of sending him and his family members on permanent residency to Canada, but thereafter, neither they ensured lawful immigration to the complainant and his family members to Canada nor returned the amount of Rs. 1 crore 60 lakh, in question, rather handed over the forged and fabricated PR letter to the complainant and thereafter, started threatening the complainant of dire consequences. Thus, the allegations are serious in nature.

9. Then, accusations against the accused/ applicant are clear and specific. As such, in order to facilitate proper investigation, for unfolding the complete story and the manner in which the things were planned and executed and for recovery of amount involved and relevant documents, custodial interrogation of the accused/ applicant, named above, is required. In case, custodial interrogation is denied to the Investigating Agency that shall leave many loopholes, lacuna and gaps in the investigation, adversely affecting the case of the prosecution, which is uncalled for.

10. As such, considering the facts of the case, gravity of the offence and serious nature of the accusation, there is all likelihood of the accused/ applicant fleeing justice. Thus, it is not a fit case for exercising the discretion under Section 438 of CrPC (482 of BNSS) for grant of concession of anticipatory/ pre arrest bail to the accused/ applicant.

11. Investigation has been in progress, in such a situation, grant of anticipatory/ pre arrest bail to the accused/ applicant will be grossly improper and it will be uncalled for to interfere in the authority of the police to interrogate the accused/ applicant.

12. Thus, the accused/ applicant is not entitled to grant of concession of anticipatory/ pre-arrest bail and his application is dismissed.

13. Needless to mention that anything discussed herein above shall have no bearing, whatsoever, upon the merits of the case and the observation recorded herein above, if any, are solely for the purpose of disposal of the application in hand.

14. Police record be returned forthwith and this file be consigned to the Record Room.

Pronounced in open court
Dated 09.08.2024

(Sanjeev Kundi)
Additional Sessions Judge,
Moga.
(UID No. PB-0246)

Sanjeev Kumar, Stenographer