IN THE HIGH COURT FOR THE STATES OF PUNJAB AND HARYANA AT CHANDIGARH

CRM-M No.........................OF 2019

Harjinder Kumar ........Petitioner.

Versus

State of Punjab .......Respondent.

Court fees of Rs…………is fixed.

CHANDIGARH (MUNISH BHARDWAJ)

DATED 28.01.2019 ADVOCATE

COUNSEL FOR THE PETITIONER

IN THE HIGH COURT FOR THE STATES OF PUNJAB AND HARYANA AT CHANDIGARH

CRM-M………...........of 2019

MEMO OF PARTIES

Harjinder Kumar son of Late Roshan Lal aged 43 years r/o Village Nangal, P.O. & P. S. Phillaur, District Jalandhar.

…………Petitioner.

Versus

State of Punjab ......Respondent.

CHANDIGARH (MUNISH BHARDWAJ)

DATED 28.01.2019 ADVOCATE

COUNSEL FOR THE PETITIONER

First Petition u/s 438 of Cr.P.C for grant of anticipatory bail to the petitioner in F.I.R.No.138 dt.28.11.2018 u/s 420/465/468/471 IPC registered at Police Station, Bilga, District Jalandhar;

Further to stay the arrest of the petitioner during the pendency of the present petition.

Respectfully Showeth:-

1. That the petitioner is law-abiding, peace loving and innocent Citizen of India and he is wrongly involved in the present case to harass him as no case is made out against him.
2. That the aforesaid FIR has been registered on the complaint of one Kirandeep Kaur and others with the allegations that petitioner and his other family members have cheated them on the pretext of getting job in Food and Supplies Department, Punjab and taken Rs.2 lac each from them. It is further alleged that petitioner has procured and manipulated fabricated appointment letters for the complainants for the post of clerk in Food and Supply Department, Punjab. A copy of FIR is attached herewith as **Annexure P-1**.
3. That totally false allegation has been levelled against the petitioner. So much so all the family members including mother, brother, sister-in-law and wife (since deceased) have been involved in the case. Actual facts of the case are that petitioner is running a Depot in his village. Complainant-Kirandeep Kaur who is known to and on visiting terms with the family of the petitioner took Rs.50,000/- from the petitioner and when he demanded back his money then, complainant-Kirandeep Kaur started blackmailing the petitioner. In continuous of which present complaint has been registered against the petitioner and his family members to pressurize and harass the petitioner and his family members.
4. That there is no question of providing job to the complainants by the petitioner in Food and Supply Department of Punjab as petitioner is not employed in the department. He is running his private business. Petitioner has not prepared any forged and fabricated appointment letters of the complainants. It has been prepared by the complainant themselves to implicate the petitioner. There is nothing on the record that complainants have contacted Food and Supply Department on the basis of forged and fabricated appointment letters. Moreover, perusal of FIR shows that complainants are brother, sister, relatives or other known person of complainant-Kirandeep Kaur. It is unbelievable that all of them have given money to the petitioner for providing all of them job in Food and Supply Department.
5. That inquiry into the allegations of the complainants was conducted by the police and even police has given the report that complainants have failed to prove giving of money to the petitioner for getting job in the Food and Supply Department. It is only on the opinion of DA Legal, present FIR has been registered against the petitioner and other family members were found innocent. Moreover, one of the complainant-Karan Shree Dhar has stated during inquiry that his wrong affidavit has been prepared in which it is stated that petitioner has taken Rs.1 lac from him. He further stated that he has not prepared the affidavit. He has neither signed the same nor paid Rs.1 lac to the petitioner which further proves falsity of the present FIR.
6. That petitioner has earlier filed the anticipatory bail before the Ld. Addl. Session Judge, Jalandhar. However, vide order dt.09.01.2019 the Ld.Addl. Session Judge, Jalandhar dismissed the anticipatory bail of the petitioner illegally without adverting to the facts of the case. A copy of the order dt.09.01.2019 passed by Ld. Addl. Session Judge, Jalandhar is attached herewith as **Annexure P-2**.
7. That as while filing the earlier bail application, it is wrongly stated and contended that a case under Prevention of Corruption Act is pending against the petitioner whereas actually FIR No.51 dated 09.04.2003 under section 420 IPC and section 7 of Essential Commodities Act, was registered against the petitioner at PS. Phillaur, District Jalandhar and in the said case, the petitioner was acquitted vide judgment dated 09.03.2017. Relevant record will be produced at the time of hearing.
8. That consequently, petitioner again filed the anticipatory bail before the Ld. Addl. Session Judge, Jalandhar. However, vide order dt.21.01.2019 the Ld.Addl. Session Judge, Jalandhar again dismissed the anticipatory bail of the petitioner illegally without adverting to the facts of the case. A copy of the order dt.21.01.2019 passed by Ld. Addl. Session Judge, Jalandhar is attached herewith as **Annexure P-4**.
9. That petitioner is ready and willing to join the investigation, as and when he is called upon to do so and he undertake to abide by all the terms and conditions, imposed by this Hon’ble Court, if granted the relief prayed for.
10. That petitioner has not filed any other similar petition either in this Hon’ble Court or in the Hon’ble Supreme Court of India or any other petition is pending in the Session Court.

PRAYER:-

It is therefore, respectfully prayed that:-

1. The present bail application be accepted and petitioner be granted anticipatory bail in F.I.R.No.138 dt.28.11.2018 u/s 420/465/468/471 IPC registered at Police Station, Bilga, District Jalandhar in the interest of justice and fair play;
2. Exempt the petitioner to file certified copies of the Annexures;
3. Issue any other order or direction which this Hon’ble Court deems fit and proper under the facts and circumstances of the case.

It is further prayed that arrest of the petitioner be stayed during the pendency of present petition in the interest of justice and fair play.

CHANDIGARH (MUNISH BHARDWAJ)

DATED 28.01.2019 ADVOCATE

COUNSEL FOR THE PETITIONER

IN THE HIGH COURT FOR THE STATES OF PUNJAB AND HARYANA AT CHANDIGARH

CRM-M No.........................OF 2019

Harjinder Kumar ........Petitioner.

Versus

State of Punjab .......Respondent.

Affidavit of Harjinder Kumar son of Late Roshan Lal aged 43 years r/o Village Nangal, P.O. & P. S. Phillaur, District Jalandhar.

I, the abovenamed deponent do hereby solemnly affirm and declare as under:-

1. That I am petitioner in the abovenoted petition and well conversant with the facts of the case.
2. That the statements made in para No. 1-10 of the petition are true and correct as per my knowledge and nothing has been concealed therein.
3. That no such or similar petition has been filed either in this Hon’ble Court or in the Hon’ble Supreme Court of India and no bail application of the petitioner is pending before the Session Court.

Chandigarh Deponent

Dated 28.01.2019

Verification

Verified that the contents of para No.1-3 of my above affidavit are true and correct as per my knowledge and nothing material has been concealed therein.

Chandigarh Deponent

Dated 28.01.2019

Annexure P-1

FIRST INFORMATION REPORT

(Under Section 154 Cr.P.C.)

1. District Jalandhar Rural PS. Bilga YEAR 2018

FIR No.0138 Date and Time of FIR 28.11.2018 18.30 hrs.

|  |  |  |
| --- | --- | --- |
| S.No. | Acts | Sections |
| 1. | IPC 1860 | 420 |
| 2. | IPC 1860 | 465 |
| 3. | IPC 1860 | 468 |
| 4. | IPC 1860 | 471 |

3.(a) Occurrence of Offence:

1. Day Date from Date To:

Time Period Time From. Time to

1. Information received at P.S: Date: 28.11.2018 Time:18.30 hrs.
2. General Diary Reference Entry No.031 Date & Time 28.11.2018 18.30 hrs.

4. Type of Information: Written

1. Place of Occurrence:
2. Direction and Distance from P.S.: North-East 2 Kms Beat No.
3. Address: Town Bilga
4. In case, Outside the limit of the Police Station:

Name of P.S.: District:

1. Complainant/Informant:
2. Name: Kirandeep Kaur
3. Father’s Name Kuljit Singh
4. Date/Year of Birth: 1991
5. Nationality: INDIA
6. UID No.
7. Passport No. Date of Issue: Place of Issue:
8. Id details (Ration Card, Voter ID Card, Passport UID No.:
9. Address

|  |  |  |
| --- | --- | --- |
| S.No. | Address Type | Address |
| 1. | Present Address | Patti Talai, Bilga, Jalandhar Rural, Punjab India |
| 2. | Permanent Address | Patti Talai, Bilga, Jalandhar Rural, Punjab India |

1. Occupation
2. Phones No.
3. Details of Known/Suspect/Unknown accused with full particulars

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
| S.No. | Name | Alias | Relative’s Name | Present Address |
| 1. | Harjinder Kumar | Raju | Father’s Name  Roshan Lal, Caste Arora | Nangal Phillaur, Jalandhar Rural, PUNJAB, INDIA |

1. Reason for delay in reporting by the complainant/Informant. NO DELAY
2. Particulars of the properties stolen/involved (attach separate sheet if necessary):
3. Total value of property stolen:
4. Inquest Report/U.D.Case No. if any.
5. F.I.R. Contents (attach separate sheet, if required):

“Copy of Complaint, Complaint No.1540/Peshi/ Dated 31.05.2016 The Senior Superintendent of Police, Jalandhar (Rural) Subject: Request for registration of a criminal case under section 406/420/465/466/467/468/471/506 IPC against (i) **Harjinder Kumar @ Raju caste Arora son of Late Sh.Roshan Lal mobile No.99147-76451, 98156-00651 (ii) Smt. Deepan wife of Harjinder Kumar @ Raju (iii) Rakesh Kumar @ Kaka son of Late Sh.Roshan Lal Mobile No.95921-99304 (iv) Smt. Pushpa wife of Late Sh. Roshan Lal** mobile 80545-30049 all residents of village Nangal, Tehsil Phillaur, District Jalandhar (v) Mr. Pali Pal son of not known resident of Dhaka Colony Santokhpura Phillaur, District Jalandhar mobile No.70872-48751 for committing fraud with the applicants as they have procured and manipulated the forged and fabricated documents i.e. appointment letters for the applicants for the post of clerk in food and supply department Punjab, Sir, Most Respectfully it is submitted as under: 1. That the applicants are law abiding and peace loving citizen of India and are permanent residents of patti Bhalai village Bilga, Teshsil Phillaur District Jalandhar and village Fatehbad Tehsil Khadur Sahib, District Tarn Taran. 2. That the above said Harjinder Kumar @ Raju approached the applicants and allured that he is serving in Food and Supply Department Punjab and he has think links with the high ups of the department and he can arrange employment for the applicants. 3. That the applicants came under the false assurance and glory talks of the above said Harjinder Kumar @ Raju and the said Harjinder Kumar @ Raju demanded Rs.2 lac each for the said post. Hence in this manner, the above said Harjinder Kumar@ Raju grabbed the trust amount of the applicants to the tune of Rs.14 Lacs.4. That not only this the above said Harjinder Kumar @ Raju has deposited a sum of Rs.19100/- with State Bank of India Phillaur on dated 17.02.2016 on behalf of the applicants on account of process charges of the application in favour of D.M. PUNSUP, Jalandhar and the said receipt is also false and frivolous. Copy of the same is also enclosed herewith for ready reference and Kind perusal. 5.That it is also pertinent to mention here that the above said Harjinder Kumar @ Raju has provided the appointment letters of the applicants bearing memo No.2546/15/record/2015 dated 20.01.2016 the same here are also forged and fabricated ones. The stamps put thereon the said appointment letters are also forged and fabricated ones. The above said Harjinder Kumar @ Raju has also forged and fabricated signatures of the officials of the department on the appointment letters. The copies of the appointment letters are enclosed herewith for ready reference and Kind perusal. 6. That the above said deal was done with the above said Harjinder Kumar @ Raju in the presence of this other family members mentioned above. The amount of Rs.2 Lacs was also given to the above said Harjinder Kumar @ Raju in order to appoint the applicant on the said post. Harjinder Kumar @ Raju also allured the applicant that the said post will be provided to them latest by 5.3.2016. But neither the applicants were appointed on the said post, nor any single penny was returned to them by the abovesaid Harjinder Kumar @ Raju. 7. That the above said accused persons have got blank signed papers from the applicants under the impression that some bond papers are required to be prepared but they have prepared and manipulated the above said document with the connivance of each other. 8. That it is not out of place to mention here that some documents alongwith photographs of the applicants have been taken by the above said Harjinder Kumar @ Raju and he has also forged and fabricated the above said documents in order to obtain SIM cards on the name of the applicants and he is using the same without any sufficient cause or reason. In case, any mis-happening is occurred in that event the said Harjinder Kumar @ Raju will be held responsible for all costs, risks and consequences. 9. That thereafter, the applicants alongwith their other family members approached the above said Harjinder Kumar @ Raju and his other family members, time and again, and requested them to return back their trust amount. Firstly, the said Harjinder Kumar @ Raju started dilly delaying the matter on the one pretext or the other. But thereafter, he flately refused to given even a single penny to the applicants and threatened the applicants for dire consequences, with the threats that in case the matter is reported to the police, in that event the results of the same will not be in their favour. The above said Harjinder Kumar @ Raju also threatened that in case the applicants will harass, humiliate the above said Harjinder Kumar @ Raju in that event he will remove the father of the applicants from the Govt. job. 10. That in this manner, the applicants and their family members are apprehending danger at the hands of the above said Harjinder Kumar @ Raju and his other family members. Hence, the life limb and property of the applicants is not safe at the hands of the above said accused persons. 11. That in this manner, the above said Harjinder Kumar @ Raju and his other family members have played a big fraud with the applicants and also misappropriated the trust amount of the applicants to the tune of Rs.14 lacs and also misappropriated their urgent documents for their own benefits and use. The above said Harjinder Kumar @ Raju and his family members are /liable to be prosecuted under section 406/420/465/466/467/468/471/506 IPC for the reasons stated above. It is therefore, respectfully prayed that criminal case under section 406/420/465/466/467/468/471/506 IPC may kindly be registered against said Harjinder Kumar @ Raju and his other family members for the offences committed by them and they be punished accordingly to law so that the justice can be done with the applicants. **Applicants Kirandeep Kaur, Amandeep daughters Mob.94638-50554, Ishpreet Singh son of Kuljit Singh resident of Bhalai Patti VPO Bilga Tehsil Phillaur District Jalandhar Mob. 94638-50554, Mukesh son of Ghanshyam Mob. 95012-73830. Karan son of Rakesh Kumar VPO, Haripur Khalsa Tehsil Phillaur, District Jalandhar Mob. 82848-73400, Baljit Singh son of Jaswinder Singh, PHC Bilga, Distt. Jalandhar Mob. 97791-26149 dated 31.05.2016.** Whereas abovesaid complaint was marked to Incharge Human Trafficking Cell, Jalandhar (Rural) by the SSP, Jalandhar (Rural). Whereas opposite side, Harjinder Kumar son of Roshan Lal r/o Village Nangal Tehsil Phillaur, District Jalandhar has given complaints No.257-PTM dated 14.03.2017 and Complaint No.621-PTM dated 20.05.2017 which are also marked by SSP, Sahib Jalandhar Rural to Human Trafficking Cell who has written in the conclusion of his inquiry report that “It is found from preliminary inquiry conducted till today, from the statements of the witnesses and documentary evidence that **family members of complainant and opposite parties are already known to each other and they used to visit their respective houses**. Abovesaid, complainant party in their statement got recorded that Harjinder Kumar abovesaid opposite party has taken Rs.2 lacs each from them for providing job in Food and Civil Supply Department, Punjab which come out to be Rs.14 lacs from 7 complainant, but no one from 7 complainants has prove about the manner of payment no Bank statement or other manner. Regarding this, complainant side were asked on number of times in writing or orally. During preliminary inquiry, no role is found of Smt. Pushpa mother of Harjinder Kumar, Smt. Deepa w/o Harjinder Kumar, Rakesh Kumar brother of Harjinder Kumar regarding receipt of money. Whereas Rajinder Kumar in his statement has mentioned about payment of Rs.50,000/- to complainant-Kirandeep Kaur, but no record is produced regarding that. **One complainant-Karan Shree Dhar s/o Rakesh Shree Dhar r/o village Haripur Khalsa, P.S.Phillaur, Tehsil Phillaur, District Jalandhar has stated in his statement that:- My mother Parkash Kaur and mother of Kirandeep Kaur namely Ajit Kaur are working together in Health Department at PHC, Bilga. My father has already expired 3 years ago. She asked my mother that if you want to employ your son in Food and Supply Department, then she is known to one Harjinder Kumar s/o Late Roshan Lal caste Arora r/o Village Nangal, P.S.Phillaur District Jalandhar who has also to get employment for their children. On this, my mother asked from me and my mother told both of them to provide job to me. After some days, my mother was told by both of them that one affidavit is prepared in the name of your son in which payment of Rs.1 lac to Harjinder Kumar is stated. That affidavit is neither seen by me or by mother and neither I have signed it. Statement made in affidavit is incorrect. My mother has definitely told to both of them (Ajit Kaur and Kamaljit Singh) to provide job for me but no money was paid to anyone. He does not know who have typed the affidavit regarding payment of Rs.1 lac to Harjinder Kumar. I have never paid Rs.1 lac to Harjinder Kumar for providing job. From this statement, doubt is created that Harjinder Kumar has really taken money from how many persons or not**. From the preliminary inquiry, I ASI came to the conclusion that complainant party Kirandeep Kaur has given money to Harjinder Kumar for job but actually in which manner and how much money is given, is not clear. Inspite of demand of Bank statement, complainant party does not provide the same. From the preliminary inquiry, statement of witnesses and documentary evidence, which offence is made out, regarding that it is necessary to obtain opinion of D.A.Legal. I, agree with the report of ASI Satish Kumar. Therefore, it is recommended to sent the complaint to the DA Legal for opinion. Report is presented for necessary order. Sd/- In English Mohinder Singh INSP, Incharge, Economic Offence Wning, District Jalandhar (Rural). Whereas, Hon’ble DSP (I) Sahib, Jalandhar (Rural) is sent the complaint to the Hon’ble DA Legal for obtaining legal opinion alongwith original complaint and inquiry report on which DA Legal Sahib has written. “Sub:- Complaint No.1540 Peshi dated 30.05.2016 257 PTM dated 14.03.2018 and 621-PTM dated 20.05.2017 from Kirandeep Kaur and Amandeep Kaur d/o Kuljit Singh r/o Bilga and others, Jalandhar Sir, I have gone through complaints filed by Kirandeep Kaur and others against Harjinder Kumar @ Raju son of Late Roshan Lal r/o village Nangal, Tehsil Phillaur District Jalandhar and others along with the enquiry report conducted by I/C EOW, Jalandhar (Rural) which is duly endorsed by DSP/Investigation, Jalandhar (Rural) and others documents placed on the file. From the facts of the complaints and enquiry report, I am of the opinion that prima facie offence u/s 420/465/468/471 of IPC is made out against Harjinder Kumar @ Raju s/o Late Roshan Lal r/o Vill. Nangal, Tehsil Phillaur, District Jalandhar within the jurisdiction of PS Bilga, Jalandhar (Rural). The case may be registered, if approved please. Sd/- Skahlon Distt. Attorney, Legal Jalandhar 19.11.18 W/SSP/Jal (Rural) On this Hon’ble SSP Jalandhar (Rural) has ordered “SHO Bilga to register case and investigate. Sd. In English Sh.Navtej Singh Mahal PPS, Sr. Suptd. Of Police Jalandhar, Rural.”

Takmil Rapat No.34 dt.28.11.2018 time 20.00 PM

1. Action taken (since the above information reveals commission of offence (s) u/s as mentioned at Item No.2:
2. Registered the case and took up the investigation
3. Directed (Name of the IO): SURINDER SINGH

No. 121/JAL Rank: ASI

To take up the investigation OR

1. Refused investigation due to or
2. Transferred to P.S.(name) on point of jurisdiction. OR District

F.I.R. read over to the complainant/informant, admitted to be correctly recorded and a copy given to the Complainant/informant free of cost.

R.O.A.C.

14. Signature/Thumb impression of the Complainant/Informant

Signature of Officer

Name GURDEV SINGH

RANK ASI No.103/JAL-R

1. Date and Time of Despatch to the court

True Translation Copy

Advocate

Annexure P-4

IN THE COURT OF KARUNESH KUMAR, ADDITIONAL SESSIONS JUDGE, JALANDHAR

Bail Application No.244 of 2019

CIS No.BA-3496/2018

CNR No.PBJL01-001786-2019

Date of Decision: 21.01.2019

Harjinder Kumar son of Late Roshan Lal aged 43 years r/o Village Nangal, P.O. & P. S. Phillaur, District Jalandhar.

…………Petitioner.

Versus

State of Punjab ......Respondent.

FIR No.138 dated 28.11.2018 u/s 420/465/468/471 IPC PS Bilga, District Jaldnahr

Second Bail Application u/s 438 Cr.P.C. for issuing the direction to SHO/I.O./A. of PS Bilga, Jalandhar to release the petitioner on bail in the event of his arrest and arrest of the petitioner be stayed till the disposal of this case.

Note:- The first bail application has been decided by the Court of Sh.Karunesh Kumar, Hon’ble Addl. Session Judge, Jalndahr vide order dt.09.01.2019 copy attached.

Sir,

It is respectfully submitted as under:-

1. That the petitioner is law abiding citizen and has been falsely implicated in the above noted case. The petitioner has committed no offence and he is innocent.

IN THE HIGH COURT FOR THE STATES OF PUNJAB AND HARYANA AT CHANDIGARH

CRM-M No.........................OF 2019

Harjinder Kumar ........Petitioner.

Versus

State of Punjab .......Respondent.

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| 3. | Criminal Misc. | 28.01.2019 | 2-7 | 3.00 |
| 4. | Affidavit in support | 28.01.2019 | 8 |  |
| 5. | Annexure P-1 (FIR) | 28.11.2018 | 9-14 | 4.00 |
| 6. | Annexure P-2 (Order passed by Ld. Addl. Session Judge, Jalandhar) | 09.01.2019 | 15-20 | 4.00 |
| 7. | Annexure P-3 (Order passed by Ld. Addl. Session Judge, Jalandhar) | 21.01.2019 | 21-23 | 3.00 |
| 8. | Photostat of Annexure P-1 | - | 24-29 | 4.00 |
| 9. | Power of Attorney | 24.01.2019 | 48 | 3.00 |
| 10. | Total Court Fees | 28.01.2019 |  | 27/- |

CHANDIGARH (MUNISH BHARDWAJ)

DATED 28.01.2019 ADVOCATE

COUNSEL FOR THE PETITIONER