

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

(212)

CRM-M-45616-2021.
Date of Decision:-03.11.2021.

Samson

.....Petitioner

Versus

State of Punjab

.....Respondent

CORAM: HON'BLE MR. JUSTICE VIKAS BAHL

Present: Mr. Manoj R. Sharma, Advocate for the petitioner.

Mr. A.K. Kaundal, DAG, Punjab.

(Through Video Conferencing)

VIKAS BAHL, J. (Oral)

This is the first petition under Section 439 of Cr.P.C. for grant of regular bail to the petitioner in case bearing FIR No.150 dated 18.09.2020 under Sections 406 and 420 of IPC and Section 13 of the Punjab Prevention of Human Smuggling Act, 2012, registered at Police Station Bullowal, District Hoshiarpur.

Learned counsel for the petitioner has submitted that in the present case, the petitioner has not taken any money from any of the three persons i.e., Rani, Manjit Kaur and Dharminder Singh for sending them/their son/daughter abroad. It is submitted that prior to registration of the present FIR, a representation was submitted by Gurpreet Singh son of Rani, Dharminder Singh, Kajal d/o Manjeet Kaur and other persons with respect to the same incident in which allegations were made against Balkar

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Singh and Aman. The said representation has been annexed as Annexure P-3 with the present petition. As per the same, the money was given to the wife of Balkar Singh i.e., Aman after going to her residence in the presence of Gurcharan Singh. The petitioner is only stated to have accompanied the said persons. Since the said Balkar Singh and Aman cannot be traced, thus, the complainant Rani along with other persons, had got the FIR registered against the petitioner. It is submitted that the petitioner has been in custody since 29.09.2021 and the petitioner has never been involved in any other case and challan in the present case has not been presented and thus, the trial is likely to take time moreso, in view of the pandemic situation. It is further submitted that the version given in the FIR with respect to the involvement of Promila, sister of the petitioner, has been found to be incorrect as the said Promila has been found to be innocent.

Learned State counsel has opposed the application for bail and has submitted that the present FIR has been registered after inquiry and as per the said FIR, the petitioner has taken Rs.4,75,000/- from the 03 complainants.

Keeping in view the above said facts and circumstances, moreso, the fact that in the representation Annexure P-3, Gurpreet Singh S/o Rani (present complainant), Kajal d/o Manjeet Kaur and Dharminder Singh had stated that it is the said Aman wife of Balkar Singh, who had taken the money at her place of residence, in the presence of Gurcharan Singh and the argument to the effect that in the present FIR, the petitioner has been roped in as the said two persons are not traceable since the past two years, is weighty and also the fact that the petitioner is in custody since

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29.09.2021 and is not involved in any other case and the challan in the present case has not been filed and, thus, the trial is likely to take time moreso, in view of the present pandemic situation, the present petition for grant of regular bail deserves to be allowed.

Accordingly, the present petition is allowed and the petitioner is ordered to be released on bail on his furnishing bail/surety bonds to the satisfaction of the concerned trial Court/Duty Magistrate and subject to him not being required in any other case.

However, nothing stated above shall be construed as a final expression of opinion on the merits of the case and the trial would proceed independently of the observations made in the present case which are only for the purpose of adjudicating the present bail application.

(VIKAS BAHL)
JUDGE

November 03, 2021.

sandeep

Whether speaking/reasoned:-

Whether Reportable:-

Yes/No

Yes/No