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IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M No.42934 of 2020 (O&M)

Decided on: 07.01.2021

Balwan

....Petitioner

Versus

State of Haryana

....Respondent

CORAM: HON'BLE MR JUSTICE ARVIND SINGH SANGWAN

Present : Mr. Arav Gupta, Advocate
for the petitioner.

Mr. Deepak Kumar Grewal, DAG, Haryana.

Mr. Pankaj Bali, Advocate
for the complainant.

ARVIND SINGH SANGWAN, J. (Oral)

Prayer in this petition is for grant of regular bail to the petitioner under Section 439 of the Code of Criminal Procedure (in short 'Cr.P.C.') in FIR No.231 dated 05.06.2020, for offence punishable under Sections 406, 420 of the Indian Penal Code, 1860 (in short 'IPC') (Sections 370 and 384 IPC added thereafter) and 24 of the Immigration Act registered at Police Station Sector 32-33, Karnal, District Karnal.

Counsel for the petitioner has argued that as per the allegations in the FIR, the complainant has paid an amount of Rs.38 lacs in cash to the petitioner for sending him to USA. It is further submitted that neither the complainant was sent to USA nor the amount was returned to him and on that pretext, the FIR has been registered.

Counsel for the petitioner has referred to some of the statements recorded under Section 161 Cr.P.C. by the police during the

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investigation that the victim is referring to one Balwan Singh, who is resident of Village Jamba, District Karnal whereas the petitioner is a resident of Village Ahar, District Panipat. It is also submitted that in some of the statements, even it is stated that the victim had gone to the house of Balwan Singh by visiting his village Jamba, District Karnal and therefore, there is a dispute regarding the identity and no one by the name of Balwan resident of village Jamba, District Karnal is arrayed as an accused. It is further argued that after registration of the FIR, Rs.2.00 lacs has already been recovered and to show his bona fide, the petitioner is ready to deposit the amount of Rs.3.00 lacs to the Illaqa Magistrate, subject to final outcome of the case, without prejudice to his right of defence. It is also submitted that if the petitioner is granted bail, he will explore the possibility of some amicable settlement with the complainant.

Counsel for the State as well as counsel for the complainant has, however, submitted that the petitioner is involved in some other FIR of similar nature for duping the persons for sending them abroad, though, in some cases he has effected the compromise with the complainants and is released on bail.

In reply, counsel for the petitioner has referred to the order dated 18.12.2020 passed in CRM-M No.41107 of 2020 to argue that the petitioner has been granted bail in the said FIR on merits, after considering his custody.

After hearing the counsel for the parties and going through the record, I deem it appropriate to grant bail to the petitioner and accordingly, without commenting anything on merits of the case and

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considering the fact that the petitioner is in custody since 23.06.2020; challan stands presented; it will take some time in conclusion of the trial due to COVID-19 situation and also in view of the fact that the petitioner has volunteered to deposit the amount of Rs.3.00 lacs with the Illaqa Magistrate within a period of 30 days from today without prejudice to his right of defence, this petition is allowed and the petitioner is directed to be released on bail subject to his furnishing bail/surety bonds to the satisfaction of the trial Court/Illaqa Magistrate/Duty Magistrate.

However, the petitioner will deposit a sum of Rs.3.00 lacs with the trial Court/Illaqa Magistrate/Duty Magistrate at the time of furnishing bail/surety bonds, which will be kept in an FDRs, without any prejudice to his right of defence, however in case of any settlement, the same will be released in favour of the complainant.

Disposed of.

(ARVIND SINGH SANGWAN)
JUDGE

07.01.2021

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Whether speaking/reasoned

Yes/No

Whether reportable:

Yes/No