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IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M No.5406 of 2021 (O&M)
Date of decision: 10.01.2022

Deepak Uttam Bapache

....Petitioner

Versus

State of Haryana

....Respondent

CORAM: HON'BLE MR. JUSTICE ARVIND SINGH SANGWAN

Present: Mr. Sawan Choudhary, Advocate for the petitioner.

Mr. Chetan Sharma, AAG, Haryana.

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.302 dated 08.07.2020, for offence punishable under Sections 406, 420, 467, 468, 471 of the Indian Penal Code, 1860 (in short 'IPC'), Section 24 of the Immigration Act, 1983 registered at Police Station 32-33, Karnal, District Karnal.

Counsel for the petitioner has submitted that as per the allegations in the FIR, registered against co-accused Suresh Kumar as well as the petitioner, it is stated that they have received Rs.18.50 lacs from the complainant and his brother-in-law Rahul Kumar, for sending them to Australia, however, they have neither returned the amount nor made any arrangement. It is further submitted that the petitioner is in custody for the last 01 year, 03 months and 28 days and though, he has been granted the concession of bail by the trial Court in another connected case i.e. FIR No.43, but he could not furnish the bail/surety bonds as he is in custody in the present case. It is also argued that even

HEARD THROUGH VIDEO CONFERENCING

the complainant are not appearing before the trial Court as fresh summons have been issued, they are avoiding appearance before the trial Court.

Counsel for the State on the basis of the Custody Certificate has not disputed the factual position but opposed the prayer for bail.

A perusal of the order dated 25.11.2021 passed by the Sub-Divisional Judicial Magistrate, show that the petitioner was granted bail in another FIR No.43 but he could not furnish the bail/surety bonds.

After hearing the counsel for the parties, without commenting anything on merits of the case, considering the fact that the petitioner is in long custody for the last 01 year, 03 months and 28 days; the custodial interrogation of the petitioner is not required; the offences are triable by the Court of Magistrate; the evidence is yet to be concluded in terms of Section 437(6) Cr.P.C. and the conclusion of the trial will take some time due to COVID-19 situation, 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/Illaq Magistrate/Duty Magistrate.

However, it will be open for the prosecution to apply for cancellation of bail of the petitioner, in case he is found involved in any other case or misusing the concession of bail, in any manner.

(ARVIND SINGH SANGWAN)
JUDGE

10.01.2022

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Whether speaking/reasoned:

Yes/No

Whether reportable:

Yes/No