

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

207

**CRM-M-25302-2021
Date of decision: 21.07.2022**

SUKHWINDER SINGH

....Petitioner

Versus

STATE OF PUNJAB

...Respondent

CORAM: HON'BLE MR. JUSTICE VINOD S. BHARDWAJ

Present : Mr. Satbir Singh Gill, Advocate for
Mr. Devinder Kumar, Advocate
for the petitioner.

Ms. Amarjit Kaur Khurana, DAG, Punjab.

VINOD S. BHARDWAJ. J. (ORAL)

1. The present petition has been filed under Section 439 of the Code of Criminal Procedure, 1973 for grant of regular bail to the petitioner in case bearing FIR No. 0318 dated 10.12.2018 registered under Sections 406 and 120 of the Indian Penal Code, 1860 and Section 24 of the Immigration Act, 1983 at Police Station, Division No.6, Jalandhar (Annexure P-1).

2. The FIR in this case was registered on the statement of complainant Baljit Singh that Sukhwinder Singh, agent had obtained Rs. 6,85,000 to send his son Kulbir Singh of Australia on 08.04.2016. This payment was made by him in installments, Rs.1 lakh was paid at the time, when passport was handed over to him. Then, he took Rs.2.5 lakh from his son on the pretext that he will be issued passport of

Australia. But he was asked to come back to India. Then he came to India and stayed for one month at Delhi. Then, he demanded Rs. 2,35,000/- to send him to Mauritius, this payment was made to Sukhwinder Singh in the presence of Manjit Singh son of Avtar Singh. He stayed there. He was sent by saying now he will move on Indian Passport and thereafter, he will move to Australia, on Malaysian passport. Since, the passport was fake, so, he was kept in jail by immigration department at Malaysia and he was fined 1500 dollars (Rs.1 lakh Indian currency) then, he was deported from Mauritius to India, then, his son demanded his money back but the agent refused.

3. Learned counsel appearing on behalf of the petitioner contends that the petitioner has been arraigned as an accused even though there is no evidence to substantiate that the amount in question was taken over by the petitioner. It is also submitted that the petitioner was arrested on 29.04.2021 and has been in custody since then having undergone an actual custody of nearly 01 year and 03 months. He further submits that the case is a magisterial trial and only two out of the 15 witnesses have been examined so far. Besides, the petitioner does not suffer from any other criminal antecedents.

4. Per contra, learned counsel appearing on behalf of the State contends that the petitioner was duly involved in the commission of the offence and that he had also sworn an affidavit with respect to having received the amount from the complainant. She has also filed a custody certificate as per which the petitioner has undergone an actual custody of 01 year, 02 months and 22 days and does not controvert the fact that there are no criminal antecedents of the petitioner, Besides, only 02 of

the 15 witnesses to be examined by the prosecution in the magisterial trial have been examined so far.

5. I have heard learned counsel appearing on behalf of the respective parties and have gone through the record with their assistance.

6. Without examining the merits of the instant case and taking into consideration, the facts noticed above and also the stage of trial as well as the clean antecedents of the petitioner along with the period of custody already undergone, I deem it appropriate to enlarge the petitioner on bail to the satisfaction of the trial Court.

7. The instant petition is allowed and the petitioner is ordered to be released on bail on his furnishing requisite bail bond/surety bond to the satisfaction of the Trial Court/Duty Magistrate, concerned.

8. It is made clear that the petitioner shall not extend any threat and shall not influence any prosecution witnesses in any manner directly or indirectly.

9. The observation made hereinabove shall not be construed as an expression on the merits of the case and the trial Court shall decide the case on the basis of available material.

The petition is allowed.

(VINOD S. BHARDWAJ)
JUDGE

JULY 21, 2022
vishal sharma

Whether speaking/reasoned : *Yes/No*
Whether reportable : *Yes/No*