

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

(279)

CRM-M-11150-2023

Date of Decision : March 15, 2023

Kuldeep Kumar

.. Petitioner

Versus

State of Punjab

.. Respondent

CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present: Mr. Raj Kumar Gupta, Advocate, for the petitioner.

Mr. Manpreet Singh Khangura, Assistant Advocate General,
Punjab.

Ms. Sukhveer Kaur, Advocate, for
Mr. R.K. Arya, Advocate, for the complainant.

HARSIMRAN SINGH SETHI J. (ORAL)

Present petition has been filed under Section 439 Cr.P.C for the grant of regular bail to the petitioner in respect of FIR No.249 dated 31.10.2020 registered under Section 420 of the IPC and Section 13 of the Punjab Travel Professionals (Regulations) Act, 2014 at Police Station Dhariwal, District Gurdaspur.

Learned counsel for the petitioner argues that the total sentence which can be awarded upon the conviction in respect of the provisions invoked in the present FIR is three years at the maximum and as of now, while undertrial, the petitioner has already undergone incarceration for a period of two years and two months, which is much more than even half of

the sentence prescribed in the offence, if proved. Learned counsel for the petitioner submits that as the trial is not likely to conclude in near future, the petitioner may kindly be extended the concession of regular bail.

Notice of motion.

Mr. Manpreet Singh Khangura, learned Assistant Advocate General, Punjab, accepts notice on behalf of the respondent-State and Ms. Sukhveer Kaur, Advocate, accepts notice on behalf of the complainant.

Learned counsel for the respondent-State, on the instructions from ASI Jagdish Singh, submits that though it is a conceded fact that the petitioner has undergone incarceration as undertrial for more than two years and two months but there are number of other cases pending against him, which shows that the petitioner is a habitual offender and therefore, the prayer of the petitioner for the grant of regular bail may kindly be declined.

Learned counsel appearing on behalf of the complainant submits that the petitioner had taken Rs.9,50,000/- for sending the complainant abroad and now he is not returning the said amount and hard earned money of the complainant is with the petitioner.

I have heard learned counsel for the parties and have gone through the record with their able assistance.

During the course of the arguments, learned counsel for the respondent-State informs the Court that there are total nine cited witnesses, who are to be examined during the trial and out of nine witnesses, only one has been examined so far and eight witnesses are yet to be examined.

Keeping in view the Sections of the IPC as well as Section 13 of the Punjab Travel Professionals (Regulations) Act, 2014 invoked in the FIR, incarceration already undergone by the petitioner as undertrial makes

him entitled for the grant of regular bail as the trial is not likely to be completed in near future as only one of the nine cited witnesses has been examined so far. Merely because there are other cases also pending against the petitioner does not entitle the respondent-State to keep the petitioner behind the bars for all times to come without proving the allegations against him.

In view of the above and without commenting upon the merits of the case, it is directed that the petitioner be released on regular bail, subject to the satisfaction of the trial Court/Duty Magistrate concerned.

Learned counsel for the petitioner undertakes that petitioner will not influence trial in any manner including influencing the witnesses and in case of default of the above undertaking, State will be at liberty to approach this Court for passing appropriate orders.

However, it is made clear that anything observed herein shall not be construed to be an expression of any opinion on the merits of the case.

March 15, 2023*harsha***(HARSIMRAN SINGH SETHI)****JUDGE**

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No