

CRM-M-32631-2023

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IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH**CRM-M-32631-2023 (O & M)****Date of decision: 13.07.2023**

Sukhwinder Kaur

.... Petitioner

V/s

State of Punjab

...Respondent

CORAM: HON'BLE MR. JUSTICE JASJIT SINGH BEDI

Present: Mr. Raminder Singh Dhaliwal, Advocate,
for the petitioner.

Mr. Harkanwar Jeet Singh, AAG, Punjab.

JASJIT SINGH BEDI, J. (Oral)

The prayer in the present petition under Section 439 Cr.P.C. is for the grant of regular bail to the petitioner in case FIR No.31 dated 09.04.2021 (Annexure P-1/T) under Sections 420, 120-B IPC and Section 13 of the Punjab Travel Professional Act, 2017 and 24 of the Immigration Act registered at Police Station Division No.1, Pathankot, Punjab.

2. The brief allegations as per the FIR are that the complainant-Durgesh Joshi had paid a sum of Rs.4,05,100/- to the accused including the petitioner to procure a job for him and his brother in a foreign country. However, no such job was provided and the received money was not returned.

3. The learned counsel for the petitioner contends that so far as the petitioner is concerned, no specific allegation have been levelled against her other than the fact that a sum of Rs.1,00,000/- had been deposited in her account on the asking of the main accused-Mark Christie. In fact, the

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inducing him to part with the money did not arise. As the petitioner was a lady, in custody since 10.04.2023 and none of the 18 prosecution witnesses had been examined so far, she was entitled to the concession of bail as the trial was not likely to be concluded anytime soon and the case was otherwise triable by the Court of a Magistrate.

4. The learned counsel for the State, on the other hand, contends that the petitioner alongwith her co-accused dishonestly induced the complainant and his family to part with the huge amount of money in order to provide a foreign work permit. However, the work permit was not provided nor was the amount refunded. The petitioner herself had received a sum of Rs.1,00,000/-. Offences of this kind were on the rise and therefore, she did not deserve the concession of bail, moreso, when two other cases of similar nature were registered against her co-accused bearing FIR No. 223 dated 24.08.2018 under Sections 420 IPC and 24 of the Immigration Act registered at Police Station Division No.06, Jalandhar and FIR No.249 dated 08.09.2018 under Sections 420, 120-B IPC and Section 24 of the Immigration Act registered at Police Station Division No.06, Jalandhar. He, however, concedes that the petitioner is a first-time offender, in custody for the last more than 03 months and none of the 18 prosecution witnesses have been examined so far after the report under Section 173(2) Cr.P.C. had been submitted.

5. I have heard the learned counsel for the parties.

6. This Court in the case of “Maninder Sharma versus State Tax Officer, State Tax, Mobile Wing, Jalandhar, Punjab, (CRM-M-24033-2021 decided on 31.08.2022), has stated that broadly speaking (subject to any statutory restrictions contained in Special Acts), in economic offences

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investigation is complete, final report/complaint filed and the triple test is satisfied then denial of bail must be the exception rather than the rule”.

In the instant case, nothing has been pointed out by the State to suggest that the petitioner would tamper with the evidence, influence witnesses or abscond from the Trial in case he is granted the concession of bail.

7. Admittedly, the case is triable by the Court of a Magistrate. The report under Section 173(2) Cr.P.C. already stands filed. None of the 18 prosecution witnesses have been examined so far. Therefore, the Trial of the present case is not likely to be concluded anytime soon. Keeping in view the attending facts and circumstances of the present case, the petitioner can be granted the concession as prayed for.

8. Thus, without commenting upon the merits of the case, the present petition is allowed and the petitioner, namely, Sukhwinder Kaur is ordered to be released on bail to the satisfaction of the Trial Court/Duty Magistrate concerned.

(JASJIT SINGH BEDI)
JUDGE

July 13, 2023
sukhpreet

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No