

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

CRM-M-40876-2023

Date of Decision:-09.10.2023

Arun.

.....Petitioner.

Vs.

State of Haryana.

.....Respondent.

CORAM:- HON'BLE MR. JUSTICE JASJIT SINGH BEDI

Present:- Mr. Rahul Deswal, Advocate for the Petitioner.

Mr. Kanwar Sanjiv Kumar, Assistant Advocate General,
Haryana.

Mr. Chiranji Lal, Advocate for the Complainant.

JASJIT SINGH BEDI, J.(ORAL)

The Prayer in this petition under Section 439 Cr.PC is for the grant of regular bail in case FIR No.154 dated 03.03.2023 under Sections 406, 420 IPC and Section 24 of Immigration Act registered at Police Station Assandh, District Karnal.

2. The present FIR came to be registered at the instance of Devi Parsan against Arun son of Shri Deva, Amandeep, Ravi Pahalwan and Harpreet Kumar with the allegations that Arun (petitioner) had met him (complainant) and had informed him that he along with his companions were in the business of sending people abroad and had also send some boys to America. They could also send his son for a sum of Rs.45 lacs. Half of the said payment was to be made in advance and remaining was to be made after the boy reached America. On the assurances of the accused including Arun

(petitioner) a sum of Rs.13 lacs had been paid in cash to Arun on 15.10.2022 in the presence of one Rajat son of Sh. Vinod Kumar and Manish son of Shree. On 16.10.2022 his son Deepak was sent to Baku and he was informed that his son would be sent onwards to America subject to a deposit of certain amounts. Based on the demand a sum of Rs.12 lacs had been deposited in three bank accounts in the name of Harpreet Kumar. However, his son had not been sent to USA from Baku but had on the other hand come back to Dubai where his son had been confined and his passport had been snatched. He (son of the complainant) had also been tortured. Thus the accused had cheated him for a sum of Rs.25 lacs.

3. The Counsel for the petitioner contends that pursuant to the arrest of the petitioner on 01.06.2023 the petitioner had confessed that his co-accused Mandeep Kumar, Ravi Pahalwan and Harpreet Singh were in the business of sending people abroad and he had only arranged the meetings of the complainant with the said persons for which he was to receive a commission of Rs.30,000/- but had only received Rs.20,000/-. In fact, the petitioner had lodged a complaint prior to the registration of the FIR against the present complainant for threatening to implicate him (petitioner). He contends that the petitioner himself wanted to go abroad and for this purpose had paid an amount of Rs.12 lacs into the account of Harpreet Kumar. As the petitioner was in custody since 01.06.2023, none of the 23 prosecution witnesses had been examined so far and the case was triable by the court of Magistrate, the petitioner was entitled to the concession of bail.

4. The Counsel for the State on the other hand contends that serious allegations have been levelled against the petitioner and his co-accused. Offences of this kind were on rise where young persons were being misled and made to part with huge amounts of money on the pretext of

sending them abroad. But later on once the money had been paid, the cheated persons were either not sent to the destination of their choice or were tortured on the way to their promised destination. Some of them had also been murdered in foreign countries. Therefore, the nature of the allegations against the petitioner and his co-accused did not entitle him to the concession of bail. He however, concedes that the petitioner is in custody since 01.06.2023, none of the 10 prosecution witnesses had been examined so far and the case is otherwise triable by the court of a Magistrate.

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

6. This Court in the case *titled as Maninder Sharma Vs. State Tax Officer, State, Mobile Wing, Jalandhar, Punjab* bearing CRM-M-24033-2021(O&M) Decided on 31.08.2022 has held as under:-

“ Therefore, broadly speaking (subject to any statutory restrictions contained in Special Acts), in economic offences involving the IPC or Special Acts or cases triable by Magistrates once the 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. However, this would not prevent the Court from granting bail even prior to the completion of investigation if the facts so warrant. ”

7. The veracity of the prosecution case against the petitioner shall be established during the course of Trial. Nothing significant has been pointed out by the State that the petitioner would abscond from the Trial, tamper with the evidence or influence the witnesses if he is granted the concession of regular bail. Even otherwise, as the petitioner is in custody since 01.06.2023 and none of the 10 prosecution witnesses have been examined so far, the Trial of the present case is not likely to be concluded

anytime soon. Therefore, his further incarceration is not required.

8. Thus without commenting on the merits of the case, the present petition is allowed and the petitioner-**Arun** son of Sh. Deva Singh is ordered to be released on bail subject to his furnishing bail bonds and surety bonds to the satisfaction of learned CJM/Duty Magistrate, concerned.

9. In addition, the petitioner (or anyone on his behalf) shall prepare an FDR in the sum of Rs.100,000/- and deposit the same with the Trial Court. The same would be liable to be forfeited as per law in case of the absence of the petitioner from the trial without sufficient cause.

10. The petition stands disposed of.

(JASJIT SINGH BEDI)
JUDGE

October 09, 2023
Vinay

Whether speaking/reasoned	Yes/No
Whether reportable	Yes/No