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

**CRM-M-696-2024
DATE OF DECISION: 15.05.2024**

MILVARTAN SINGH

...PETITIONER

Versus

STATE OF PUNJAB

... RESPONDENT

CORAM: HON'BLE MR. JUSTICE SANDEEP MOUDGIL

Present: Mr. G.S Virk, Advocate for the petitioner(s).
Mr. J.S. Rattu, DAG, Punjab.

SANDEEP MOUDGIL, J (ORAL)

1. The jurisdiction of this Court under Section 439 Cr.P.C., has been invoked for the grant of regular bail to the petitioner in FIR No. 48, dated 15.09.2023, under Sections 420/120-B IPC and Section 13 of Punjab Prevention of Human Smuggling Act, 2012 registered at Police Station Cheema, District Sangrur.
2. Learned counsel for the petitioner contends that the petitioner was contacted by the co-accused-Gagandeep Singh and was asked to apply the visa of both the complainants. During this process, the main accused Gagandeep Singh received the payment from the complainants but the petitioner received only some wages against the services he was supposed to render i.e. for facilitating and submitting the documents to get visa for sending the complainants abroad i.e. Australia. He asserts that the petitioner is behind the bars for more than 7 months and is not involved in any other case.



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3. Learned State counsel has filed the custody certificate of the petitioner, which is taken on record. According to which, the petitioner is behind bars for the last 7 months and 1 day, who is not involved in any other case.

4. This Court is of the considered view that since the petitioner is behind the bars for 7 months and 1 day, the antecedents of the petitioner are clean and as per the principle of the criminal jurisprudence, no one should be considered as guilty till the guilt is proved beyond reasonable doubt, whereas in the instant case, trial is prolonged and likely to take long time in the light of the fact that out of 14 prosecution witnesses, none has been examined and charges are framed on 04.04.2024 and detaining the petitioner behind the bars for an indefinite period would amount to violation of Article 21 of the Constitution of India and is against the principle "Bail is a rule, jail is an exception" as elucidated in the judgement of Apex Court in "***Dataram Singh vs. State of Uttar Pradesh and another;*** (2018) 3 SCC 22".

5. In view of the aforesaid discussions made hereinabove, the petitioner is directed to be released on regular bail on his furnishing bail and surety bonds to the satisfaction of the trial Court/Duty Magistrate, concerned.

6. However, it is made clear that anything stated hereinabove shall not be construed as an expression of opinion on the merits of the case.

(SANDEEP MOUDGIL)
JUDGE

15.05.2024
anuradha

Whether speaking/reasoned
Whether reportable

Yes/No
Yes/No