

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-17851-2024
DECIDED ON: 03.05.2024

SIKANDER PAL SINGH

.....PETITIONER

VERSUS

STATE OF HARYANA

.....RESPONDENT

CORAM: HON'BLE MR. JUSTICE SANDEEP MOUDGIL

Present: Dr. Anmol Rattan Sidhu, Sr. Advocate with
Mr. Kanishk Sarup, Advocate
for the petitioner.

Mr. B.S. Virk, Sr. DAG, Haryana.

SANDEEP MOUDGIL, J (ORAL)

1. The jurisdiction of this Court has been invoked under Section 439 Cr.P.C. for grant of regular bail to the petitioner in FIR No.61, dated 14.03.2023 (Annexure P-1), under Sections 420, 467, 468, 471 IPC, registered at Police Station Ismailabad, District Kurukshetra.
2. Learned Senior counsel for the petitioner contends that at the behest of complainant's son's brother-in-law, the instant FIR came to be lodged alleging that at the behest of the petitioner multiple Visas have been applied to various persons using the same sponsorship. Mr. Sidhu, learned Senior counsel for the petitioner vehemently argues that neither the complainant has revealed his name nor is he named in the FIR and even during the course of evidence before the trial Court, the complainant while appearing as PW-1 in the witness box, has not named the present petitioner.

3. On the other hand, learned State counsel has produced the custody certificate of the petitioner today in Court, which is taken on record. He seeks dismissal of the instant petition urging that the petitioner has used the fake sponsorship qua various persons while applying for visa but could not point out any single case wherein the benefit was taken for two different persons. Though he could not controvert the fact that investigation in the matter is complete, charges stands framed on 24.07.2023 and out of total 19 prosecution witnesses, only 04 witnesses have been examined till date and out of 04 examined witnesses, two witnesses have been turned hostile making out a direct probability of acquittal to the petitioner.

4. However, without advertng to the merits of the case, considering the custody period suffered by the petitioner i.e. 01 year 01 month and 04 days apart from the fact that he has not been named in the FIR nor in the deposition suffered by the complainant attributing any specific role and the fact that the conclusion of trial will take a long time as out of total 19 prosecution witnesses, only 04 have been examined wherein material witnesses have turned hostile, therefore, no useful purpose would be served by keeping the accused behind the bars for an indefinite period.

5. In the light of above facts, this Court is sanguine of the fact that according to the proposition settled by the Apex Court in ***Dataram Singh vs. State of Uttar Pradesh & Anr. 2018(2) R.C.R. (Criminal) 131***, that keeping somebody behind the bars, till his guilt is proved, for an indefinite period amounts to infringement of his right to life and liberty, as enshrined under Article 21 of Constitution of India and is against the principle “*bail is a rule*” and “*jail is an exception*”.

6. Therefore, 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.
7. In the afore-said terms, the present petition is hereby allowed.
8. However, it is made clear that anything stated hereinabove shall not be construed as an expression of opinion on the merits of the case.

03.05.2024
Poonam Negi

(SANDEEP MOUDGIL)
JUDGE

<i>Whether speaking/reasoned</i>	<i>Yes/No</i>
<i>Whether reportable</i>	<i>Yes/No</i>