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IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

CRM-M-17897-2024
Date of decision:-13.05.2024

PAWAN SAINI

... Petitioner

Versus

STATE OF HARYANA

... Respondent

CORAM:- HON'BLE MR. JUSTICE SANJIV BERRY.

Present:- Mr. Rajesh Lamba, Advocate for the petitioner.

Mr. Surender Singh, AAG, Haryana.

Ms. Aarti Sharma, Advocate for respondent No.2.

SANJIV BERRY, J. (ORAL)

Learned State counsel has filed reply dated 13.05.2024 by way of affidavit of Deputy Superintendent of Police, Crime, Panipat. The same is taken on record, copy thereof has been supplied to the counsel opposite.

2. The instant petition has been preferred by the petitioner under Section 439 of the Code of Criminal Procedure for grant of regular bail in the following case (Annexure P-1):-

FIR No.	Dated	Sections	Police Station
0190	03.08.2023	406, 420, 120-B, 370 IPC and 24 of Emigration Act	Sadar Panipat, District Panipat.

3. It is *inter alia* contended by learned counsel for the petitioner that the petitioner is innocent and has been falsely implicated in this case. He



submits that the petitioner was nominated on the alleged disclosure statement made by co-accused Prem Kumar. He submits that the petitioner has no concern with the alleged transactions but as per the allegations levelled by the prosecution, he received ₹50,000/- as commission out of which ₹9500/- have been recovered from him. He submits that petitioner was arrested on 17.12.2023 since then he is in custody, challan has already been presented in Court and petitioner is not involved in any other criminal case, as such he prays for grant of bail to the petitioner.

4. *Per contra*, learned State counsel referring to the reply submits that the petitioner has been actively involved in the transactions where by the son of the complainant was sent abroad by co-accused Prem Kumar after receiving ₹14,00,000/- from him and the petitioner has actively participated in the transactions. He however, admitted that the challan has already been presented against the petitioner and prosecution has cited 11 witness and till date none of them have been examined.

5. After considering the rival contentions and perusing the record, it transpires that the present case was registered on the complaint made by complainant Bir Chand alleging that the accused Pawan Kumar and Lekh Raj were contacted for sending his son abroad and deal was finalized with one Prem Kumar for sending his son abroad for which he demanded ₹14,00,000/-, which were paid but later his son was sent to Dubai but could not be sent to Itlay and the accused have not returned the amount and cheated him. Sofar as the role of the petitioner is concerned, he is alleged to have taken ₹50,000/- as commission out of which ₹9500/- have since been



recovered from him. There is no specific allegations against the petitioner of having allured or cheated the complainant. The challan has since been presented in Court in the present case triable by the Court of Magistrate wherein prosecution has cited 11 witnesses and none of them have been examined till date. The conclusion of trial will take sufficient long time to ascertain criminal liability, if any of the petitioner and no purpose would be served by keeping petitioner behind bars any longer.

6. Resultantly, the present petition is allowed. The petitioner is ordered to be released on regular bail subject to furnishing bail bonds/surety bonds to the satisfaction of learned Trial Court concerned, if not required in any other case; undertaking to regularly appear on each and every date; not to leave the country without prior permission of the Court; and not to tamper with evidence of prosecution in any manner.

7. Any observation made above shall not be construed as opinion of this Court on the merits of the case.

(SANJIV BERRY)
JUDGE

13.05.2024
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| i) | Whether speaking/reasoned? | Yes/No |
| ii) | Whether reportable? | Yes/No |