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IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

CRM-M-32272-2024(O&M)
Date of decision:-22.08.2024

KAMLESH SARA0 ... Petitioner
Versus
STATE OF PUNJAB ... Respondent

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

Present:- Mr. Aditya Sanghi, Advocate for the petitioner.
Mr. Japjot Singh, AAG, Punjab.
Mr. Abhivadya Sood, Advocate for the complainant.

SANJIV BERRY, J. (ORAL)
CRM-26985-2024

1. Application under Section 482 Cr.P.C is for exemption from filing certified copies of the Annexures and for placing on record photo copy of the same.
2. Application is allowed, subject to all just exceptions.

Main case

1. 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:-

FIR No.	Dated	Sections	Police Station
11	23.02.2024	406, 420, 120-B IPC and Section 24 of Immigration Act, 1983	Dhakoli, District SAS Nagar, Punjab.

2. It is *inter alia* contended by learned counsel for the petitioner that the petitioner is innocent lady aged about 58 years and has been falsely



implicated in this case. He contends that infact the petitioner and the mother of complainant happen to be colleagues in the Bharat Electronics Limited and the complainant used to take loan from the petitioner at different times as per requirement. He contends that neither the petitioner nor her husband are working as travel agent and as per allegations the complainant party is alleged to have given ₹36.9 lakhs through bank transactions while another 20 lakhs in cash and during pendency of the proceedings ₹23.5 lakhs have already been paid to the complainant party as is referred to in the order dated 13.08.2024 passed by learned Additional Sessions Judge, SAS Nagar, Mohali in this regard. He submits that petitioner is in custody since 16.03.2024 and is not required for further investigation as challan has already been presented in Court. He contends that petitioner is not having any other criminal case registered against her, as such he prays for grant of concession of bail to the petitioner.

3. *Per contra*, learned State counsel assisted by learned counsel for the complainant have assailed these arguments by arguing that the petitioner alongwith her husband have cheated the complainant party on the pretext of sending them abroad and taken ₹58 lakhs but neither they have got their VISA's nor returned the amount. However they have not denied the factum of ₹20 lakhs and ₹3.5 lakhs have been received back by the complainant party during pendency. By referring to the reply submitted by the State they have prayed for dismissal of the present petition.

4. After considering the rival contentions and perusing the record, it transpires that the instant case was registered against the petitioner and her husband on the allegations that they had defrauded the complainant party of ₹58 lakhs on the pretext of sending them abroad but neither they arranged for

their VISA's nor returned the amount, hence the FIR.

5. Admittedly the petitioner is a lady aged about 58 years had been arrested by the Police on 16.03.2024 since then she is in custody. It is not disputed that amount of ₹20 lakhs has been paid to the complainant party during pendency of the bail application before the learned Additional Sessions Judge, SAS Nagar, Mohali as is evident from its order dated 13.08.2024 and return of ₹3.5 lakhs is mentioned in the FIR itself. As stated above the challan has already been presented in the Court after completion of investigation by the police. The petitioner is not having any criminal antecedents. The conclusion of trial to ascertain criminal liability, if any, of the petitioner in this case triable by the Court of Magistrate will take sufficient long time and no purpose would be served by detaining petitioner any longer.

6. In these circumstances, without commenting on the merits of the case, it is observed that no purpose would be served by keeping petitioner behind bars. Therefore, the present petition is allowed. The petitioner is ordered to be released on 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

22.08.2024

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- i) Whether speaking/reasoned?
- ii) Whether reportable?

Yes/No
Yes/No