

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

223

CRM-M-34103-2024
Date of decision: 06.08.2024

MADHUMITA DASS SADHUKHANPetitioner

Versus

STATE OF HARYANA ...Respondent

CORAM: HON'BLE MR. JUSTICE KULDEEP TIWARI

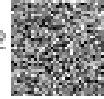
Present : Mr. D.S. Virk, Advocate
for the petitioner.

Mr. Bhupender Singh, DAG, Haryana.

KULDEEP TIWARI. J.(Oral)

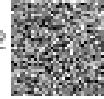
1. Through the instant petition, the petitioner craves for indulgence of this Court for her being enlarged on regular bail, in case FIR No.173 dated 13.05.2023, under Sections 364-A, 370, 384, 386, 406, 420, 120-B of IPC, and Section 24 of Emigration Act, registered at Police Station Pundri, District Kaithal.
2. The instant FIR has been registered on a complaint made by one Vedpal, the relevant extract of the same, reads as under:-

“That facts in brief of the prosecution case are that the present complaint was received from office of S.P. Kaithal in Police Station Pundri through official Dak, wherein it was alleged by complainant Vedpal son of Surta Ram, resident of village Karora that he was known to accused Ramesh son of Ishwar since December 2018. Accused Ramesh told him in the month of February 2021 that he works in sending the people to abroad and he asked the complainant to send his son Bhupender to America for the sum of Rs.42,00,000/-, His neighbour Rajesh alias Raja also showed interest for settling abroad. The deal was struck for Rs.80 lacs. In the last week of March



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2021, accused Ramesh took Rs.31,000/- from complainant and original passports of Bhupender and Rajesh. On 19.06.2021, amount of Rs.5,50,000/- was handed over to Ramesh and again on 22.10.2021 wife of accused namely Anita took amount of Rs.2,50,000/- from complainant. Accused Ramesh, Anita and Rohit started saying that Visa has come. Again complainant bought \$6000 for sum of Rs.4,53,000/-. Rs.90,000/- were given to the accused persons, which were to be spent by them at Calcutta. But Bhupender and Rajesh were taken from Delhi to Calcutta on 27.10.2021 and were kidnapped in Eco Park, Calcutta and at gun point they were made to say that they have reached America. On 30.10.2021, again accused Ramesh and his son Rohit took Rs.13 lacs rupees from complainant. Accused Ramesh made complainant to deposit Rs.2 lacs in the account of Baroda Milk Dairy and Rs.30 lacs were taken by Ramesh and Anita. On 09.11.2021, accused took Rs.2 lacs and on 10.11.2021 again accused Ramesh took Rs.8 lacs from complainant. On 10.11.2021, complainant got call from his son Bhupender. He disclosed that they have been kidnapped and their passports have been taken by them. Complainant asked the accused persons to pay back Rs.68,74,000/- back to him and also requested accused that their children should return safely at home. But complainant's son was sent again to Bombay, Sri Lanka and from Sri Lanka to Indonesia Jakarta in September 2022. Again at instructions of accused on 29.11.2022, Rs.1,500/- were transferred to Manoj Garg's account. Rs.65,000/- were transferred to Ramesh Gahlot account and Rs.50,000/- were transferred to Heena's account. His son took \$200 with him. Thus again accused committed fraud of Rs.1,33,500/-. His son was kept hungry and thirsty till 24.03.2023. He was tortured. He was made to work and was sent back to India. Complainant demanded his Rs.70,07,500/- back from Ramesh but he threatened to kill him. On aforesaid complaint formal FIR was lodged and investigation began.”



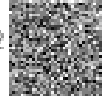
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3. The learned counsel for the petitioner, in his asking for the hereinabove extracted relief, has made the following submissions:-

- (i) No role is assigned to the present petitioner in commission of the alleged crime, rather she is involved in the instant case, on the basis of the disclosure statement of the main accused Sunil Kejriwal;*
- (ii) The only allegation against the present petitioner, even if that disclosure statement is taken to be correct, that Sunil Kejriwal has given some amount to the present petitioner, out of the crime proceed;*
- (iii) Out of the total 22 prosecution witnesses cited in the final report, none has been examined till date;*
- (iv) The final report under Section 173 Cr.P.C., had already been filed on 26.02.2024, but the charges are yet to be framed;*
- (v) Petitioner has suffered incarceration of more than 08 months, as on today.*

4. Reply by way of affidavit dated 05.08.2024, of Sh. Lalit Kumar, HPS, Deputy Superintendent of Police, Kalayat has been filed on behalf of respondent-State. The same is taken on record. Copy of the same has been supplied to the opposite counsel.

5. Learned State counsel has opposed the grant of regular bail to the present petitioner on the ground that, Sunil Kejriwal has given some amount, to the present petitioner, out of the crime proceed. Learned State counsel further draws attention of this Court to the disclose statement of the main accused, wherein, he disclosed that he kept the amount of Rs.1.5 lakh at the house of the present petitioner. The learned State counsel has placed on record the custody certificate of



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the petitioner, as issued by the Deputy Superintendent of Prison, Deputy Superintendent, District Prison (Karnal), Haryana. The same is taken on record. A perusal of the custody certificate reveals that the petitioner has suffered incarceration of 08 months and 01 days, as on today. Learned State counsel on instructions, imparted to him by the official respondent, submits that after conclusion of the investigation, the final report under Section 173 Cr.P.C., had already been filed on 26.02.2024, and the charges are yet to be framed. Learned State counsel further submits that out of the total 22 prosecution witnesses cited in the final report, none has been examined till date.

6. This Court has heard the learned counsel for the parties concerned, and perused the record, and is of the considered opinion that the instant petition is amenable for being allowed, for the reasons assigned herein:-

- (i) It is admitted fact that the petitioner is not named in the FIR (supra), and she has not participated in commission of crime, as alleged in the FIR, rather the role of the petitioner as surfaced during investigation, and as per the disclosure statement of co-accused Sunil Kejriwal that, he has given an amount of Rs.2,00,000/- to the present petitioner, and the recovery of amount, thereafter received from the present petitioner is Rs.50,000/-;
- (ii) The petitioner has suffered incarceration of 08 months and 01 day, as on today;
- (iii) Out of the total 22 prosecution witnesses cited in the final report, none has been examined till date.
- (iv) The final report under Section 173 Cr.P.C was filed on



26.02.2024,

- (v) No fruitful purpose would be served by keeping the petitioner behind the bars,
- (vi) Trial is not likely to conclude anytime soon.

7. Considering the hereinabove made discussion, this Court deems it fit and appropriate to grant the concession of regular bail to the petitioner. Therefore, without commenting upon the merits and circumstances of the present case, the present petition is **allowed**. The petitioner is ordered to be released on bail on furnishing of bail bond and surety bond to the satisfaction of concerned Chief Judicial Magistrate/trial Court/Duty Magistrate.

8. However, anything observed here-in-above shall have no effect on the merits of the trial, and is only meant for deciding the present petition.

9. However, it is clarified that if in future, the petitioner is found indulging in commission of similar offences, as are involved herein, the respondent-State shall be at liberty to make an appropriate application seeking cancellation of regular bail, as granted by this Court.

06.08.2024
amandeep

(KULDEEP TIWARI)
JUDGE

Whether speaking/reasoned. : Yes/No
Whether Reportable. : Yes/No