

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

**CRM-M-41191-2021 (O&M)
Date of decision : 14.03.2024**

Rajan Masih

...Petitioner

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MR. JUSTICE MAHABIR SINGH SINDHU

Present: Mr. Ranbir Singh Pathania, Advocate for the petitioner.

Mr. Neeraj Madan, Sr. DAG, Punjab for the respondent.

Mr. J.S.Sohal, Advocate for the complainant.

MAHABIR SINGH SINDHU, J.

Present petition has been filed under Section 438 of the Code of Criminal Procedure, 1973 for grant of pre-arrest bail to the petitioner in FIR No.0091 dated 21.08.2021, under Section 420 of the Indian Penal Code, 1860; Section 13 of the Punjab Prevention of Human Smuggling Act, 2012 and Section 24 of the Emigration Act, 1983, registered at Police Station Taragarh, District Pathankot.

(2) Precisely, the allegations are that petitioner received an amount of ₹ 4,89,000/- for sending the complainant abroad.

(3) Contends that petitioner was granted interim bail by this Court, vide order dated 01.10.2021 and in pursuance thereof, he has already joined the investigation; thus, his custodial interrogation is not required. Also contends that matter has been amicably settled between the parties before the

Mediator on 12.02.2024. Further submits that in pursuance of the settlement, the amount in question shall be paid to the complainant by 20.09.2024.

(4) Learned State Counsel, on instructions, acknowledged the above factual position and submits that as on today, his custodial interrogation is not required.

(5) Learned Counsel for the complainant also not disputing the factum of compromise and even submitted that he has no objection in case the present petition is allowed.

(6) Heard learned Counsel for the parties and perused the paper-book.

(7) It is not in dispute that petitioner was granted interim bail by the Court on 01.10.2021 and the order reads as under:-

“Today, at the very outset, learned counsel for the petitioner submits that the matter infact pertains to some monetary transaction amongst the parties and that, in any case, he is willing to settle the same and in order to prove his bonafides he shall deposit an amount of ₹ 50,000/- before the Trial Court within a period of 15 days from today.

Notice of motion for 29.3.2022.

Meanwhile, in the event of arrest, the petitioner be released on interim bail subject to his furnishing personal bonds and surety bonds to the satisfaction of Arresting/Investigating Officer. However, the petitioner shall join investigation as and when called upon to do so and cooperate with the Arresting/Investigating Officer and shall abide by the conditions as provided under Section 438(2) Cr.P.C.

Keeping in view the offer made by the petitioner, the petitioner shall deposit an amount of ₹ 50,000/- before the Trial Court, which shall be invested in the shape of some FDR with Nationalized Bank, which the petitioner shall not be entitled to encash without order of the Court. The Trial Court/Illaq

Magistrate shall issue a direction in this regard to the Bank Manager concerned. The petitioner, in the meanwhile, shall try to work out some amicable settlement and come out with a concrete proposal on the next date of hearing.”

- (8) It is acknowledged by learned State Counsel that in pursuance of the aforesaid order, petitioner joined the investigation and his custodial interrogation is not required at this stage.
- (9) In view of the above, present petition is allowed; interim order dated 01.10.2021 is made absolute subject to the conditions as envisaged under Section 438(2) Cr.P.C.
- (10) It is also made clear that petitioner shall fully co-operate with the Investigating Officer as and when called for further investigation.
- (11) The above observations may not be construed as an expression of opinion on merits of the case; rather confined only to decide the present bail matter.
- (12) It is clarified that in case there is recurrence on the part of the petitioner and/or there is non-compliance of the undertaking given by the petitioner, State/complainant would be at liberty to move an appropriate application for recalling of this order.
- (13) Pending application(s), if any, shall also stand disposed off.

14th March, 2024
Gagan

(MAHABIR SINGH SINDHU)
JUDGE

Whether speaking/reasoned	Yes/No
Whether Reportable	Yes/No