

CRM-M-50197-2023 (O & M)
(225)

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IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRM-M-50197-2023 (O & M)
Date of decision: 29.01.2024

Gurparvesh Singh Sran @ Gurparvesh Singh Sraw

..... Petitioner

V/s

State of Punjab

...Respondent

CORAM: HON’BLE MR. JUSTICE JASJIT SINGH BEDI

Present: Mr. Atul Goyal, Advocate, for the petitioner.

Mr. Harkanwar Jeet Singh, AAG, Punjab

JASJIT SINGH BEDI, J. (Oral)

CRM-46874-2023

This is an application for amendment in the headnote and the prayer clause of the main petition and for addition of offence under Section 24 of the Immigration Act, 1983 therein.

For the reasons mentioned in the application, the same is allowed. Let Section 24 of the Immigration Act be read alongwith other Sections mentioned in the headnote as well as prayer clause of the main petition.

The Registry is directed to carry out the necessary corrections accordingly.

CRM-M-50197-2023 (O & M)
(225)

::2::

CRM-M-50197-2023

The prayer in this petition under Section 439 Cr.P.C. is for the grant of the regular bail to the petitioner in FIR No.323 dated 21.08.2023 under Sections 406, 420, 120-B IPC and Section 24 of the Immigration Act (added vide order of even date passed in CRM-46874-2023) registered at Police Station Sohana, District SAS Nagar.

2. The present FIR came to be registered at the instance of Ravinder Singh who stated that Balwinder Kaur, Gurparvesh Singh Sran (petitioner) and Sukhwinder Singh took a sum of Rs. 4,00,000/- from him on the pretext of sending him abroad. However, neither was he sent nor was the money refunded to him.

3. The learned counsel for the petitioner contends that the petitioner had been falsely implicated in the present case. The amount had been taken from the complainant by Balwinder Kaur (mother of the petitioner) for depositing the fee of her younger son. The written agreement referred to had been fabricated later on on the blank papers which had been signed by the petitioner. As the petitioner was in custody since 21.08.2023, none of the 16 prosecution witnesses had been examined so far and he was a first-time offender, he was entitled to the concession of bail, moreso, as the case was triable by the Court of a Magistrate.

4. The learned counsel for the State, on the other hand, has filed a reply dated 29.01.2024, which is taken on record. While referring to the said reply, he contends that the mother of the petitioner alongwith the petitioner and his father had taken a sum of Rs.4,00,000/- from the complainant to

CRM-M-50197-2023 (O & M)
(225)

::3::

send him abroad. However, neither was he sent nor was the money refunded to him. Therefore, the nature of the allegations levelled against the petitioner did not entitle him to the grant of concession of bail.

5. I have heard the learned counsel for the parties.

6. This Court in the case titled as ***Maninder Sharma Vs. State Tax Officer, State, Mobile Wing, Jalandhar, Punjab bearing CRM-M24033-2021(O&M) Decided on 31.08.2022*** has held as under:-

“Therefore, broadly speaking (subject to any statutory restrictions contained in Special Acts) , in economic offences involving the IPC or Special Acts or cases triable by Magistrates once the investigation is complete, final report/complaint filed and the triple test is satisfied then denial of bail must be the exception rather than the rule. However, this would not prevent the Court from granting bail even prior to the completion of investigation if the facts so warrant.”

7. The veracity of the prosecution case against the petitioner shall be adjudicated during the course of the Trial. Admittedly, the petitioner is in custody since 21.08.2023 and none of the 16 prosecution witnesses have been examined so far. Therefore, the Trial in the present case is not likely to be concluded anytime soon. He is also stated to be a first-time offender. The present case is, however, triable by the Court of a Magistrate and no serious apprehension has been expressed by the State that the petitioner would abscond from justice, tamper with the evidence or influence witnesses if granted the concession of bail. Therefore, in this situation, the further incarceration of the petitioner is not required.

CRM-M-50197-2023 (O & M)
(225)

::4::

8. Thus, without commenting upon the merits of the case, the present petition is allowed and the petitioner, namely, Gurparvesh Singh Sran @ Gurparvesh Singh Sraw is ordered to be released on bail to the satisfaction of the Trial Court/Duty Magistrate concerned.
9. In addition, the petitioner (or anybody on his behalf) shall prepare an FDR in the sum of Rs.50,000/- and deposit the same with the Trial Court. The same would be liable to be forfeited as per law in case of the absence of the petitioner from Trial without sufficient cause.
10. The present petition stands disposed of.

January 29, 2024
sukhpreet

(JASJIT SINGH BEDI)
JUDGE

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No