

CRM-M-51846-2023 (O & M)
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IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRM-M-51846-2023 (O & M)
Date of decision: 13.02.2024

Balwinder Kaur and anr.

..... petitioners

V/s

State of Punjab and anr.

...Respondents

CORAM: HON’BLE MR. JUSTICE JASJIT SINGH BEDI

Present: Mr. K.S. Sidhu, Advocate, for the petitioners.

Ms. Ramta K Chaudhary, DAG, Punjab.

JASJIT SINGH BEDI, J. (Oral)

CRM-6596-2024

The application for placing on record certain documents (Annexures P-5 to P-7) is allowed as prayed for subject to all just exceptions. The same are taken on record.

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The prayer in this petition under Section 439 Cr.P.C. is for the grant of the regular bail to the petitioners in FIR No.323 dated 21.08.2023 under Sections 406, 420, 120-B IPC and Section 24 of the Immigration Act, 1983 (added vide order dated 14.11.2023) registered at Police Station Sohana, District SAS Nagar.

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2. The present FIR came to be registered at the instance of Ravinder Singh who stated that Balwinder Kaur (petitioner No.1), Gurparvesh Singh Sran (since granted bail vide order dated 29.01.2024 passed in CRM-M-50197-2023) and Sukhwinder Singh (petitioner No.2) 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 petitioners contends that the petitioners had been falsely implicated in the present case. The amount had been taken from the complainant by Balwinder Kaur for depositing the fee of her younger son. The written agreement referred to had been fabricated later on the blank papers which had been signed by the accused. As the petitioners were in custody since 21.08.2023, none of the 16 prosecution witnesses had been examined so far and a co-accused had been granted bail, they were 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, contends that the petitioners had taken a sum of Rs.4,00,000/- from the complainant to send him abroad. However, neither was he sent nor was the money refunded to him. Therefore, the nature of the allegations levelled against the petitioners did not entitle them to the grant of concession of bail, moreso, when they had criminal antecedents with two other cases pending against them.

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

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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 petitioners shall be adjudicated during the course of the Trial. Admittedly, the petitioners are 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. A co-accused has been granted bail. The present case is Triable by the Court of a Magistrate and no serious apprehension has been expressed by the State that the petitioners 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 petitioners is not required.

8. Thus, without commenting upon the merits of the case, the present petition is allowed and the petitioners, namely, Balwinder Kaur and Sukhwinder Singh are ordered to be released on bail to the satisfaction of the Trial Court/Duty Magistrate concerned.

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9.

In addition, the petitioners (or anybody on their behalf) shall prepare an FDR in the sum of Rs.1,00,000/- each 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 petitioners from Trial without sufficient cause.
10.

The present petition stands disposed of.

February 13, 2024
sukhpreet

(JASJIT SINGH BEDI)
JUDGE

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No