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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-52516-2024
Date of decision: 25.10.2024

PARVEEN KUMAR

...PETITIONER

V/S

STATE OF HARYANA

...RESPONDENT

CORAM: HON’BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Mr. Sanjeev Majra, Advocate
for the petitioner.

Mr. Vikas Bhardwaj, AAG, Haryana.

HARPREET SINGH BRAR, J. (ORAL)

1. This is the first petition filed under Section 439 of Cr.P.C. seeking grant of regular bail to the petitioner in the case bearing FIR No.779 dated 09.12.2023 registered under Sections 406, 420 and 120-B of Indian Penal Code at Police Station Gharaunda, District Karnal.
2. In brief, present FIR was registered on the joint application of Rishipal, Virender, Rakesh Kumar and Siya Ram, complainants alleging that all of them became acquainted with one Parveen son of Ranbir Singh (petitioner herein) who assured to send their children abroad by using his contacts and secure for them work permit of Canada. In the said work, Vijender was also with him, who told them that they had already sent about 500 children abroad. Aforesaid Parveen (petitioner herein) and Vijender, who are teachers in Gurukul, Pundri, arranged their meeting with one Rajinder resident of Mohali at Karna Lake, Karnal stating that he was the owner of R.D. Enterprises and he would send their children abroad within three months upon making the payment. Acting on their inducements, they made a total



payment of Rs.33,75,000/- to the above said persons Parveen (petitioner herein), Vijender and Rajinder, as per details incorporated in the application, of which a sum of Rs.23,75,000/- was paid into the bank account of present petitioner on various dates. However, after receipt of the payment, the said persons did not send any child abroad and when they demanded their money back, the said persons threatened to kill them. A prayer was made to take necessary action against the culprits. On the basis of said application, present FIR has been registered under Section 406, 420 IPC.

3. Learned counsel for the petitioner *inter alia* contends that the petitioner has been falsely implicated in the present case as he never dishonestly induced the complainant. The entire case of the prosecution is based on the allegation that the petitioner has failed to send the children of complainants abroad, after receiving the money and he has not returned the amount. It is further contended that the bank account of the petitioner has been seized by the jurisdictional police authorities and the entire money is lying deposited in that account. The case of the prosecution is entirely based upon the documentary evidence and the FIR (supra) has been registered after an inordinate delay of more than 01 year. Furthermore, the co-accused, namely, Vijender, who is on the similar footing, has already been granted regular bail by this Court vide order dated 26.09.2024 in case bearing CRM-M No.34999 of 2024 (Annexure P-3). Further, the case of the petitioner is triable by the Magistrate and the offence under Section 406 IPC is punishable upto 03 years and offence under Section 420 IPC is punishable upto 07 years.

4. Mr. Parminder Singh, Advocate with Ms. Kamlesh, Advocate has put in appearance on behalf of the complainant-Rishipal and filed his *vakalatnama* which is taken on record. Registry is directed to tag the same at



the appropriate place. *Per contra*, learned counsel for the complainant opposes the prayer made by the petitioner on the ground that he has cheated the complainants and a huge amount has been obtained from them on the pretext of sending their children abroad. Further, the petitioner is also involved in 02 more cases registered in Districts Panipat as well as Kaithal.

5. Learned State counsel also opposes the prayer made by the petitioner on the ground that the complicity of the petitioner is duly established as he is the principal culprit, who has dishonestly induced the complainants to part with their money and out of Rs.33 lakhs, the petitioner has received Rs.23 lakhs in his bank account.

6. Having heard the learned counsel for the parties and after perusing the custody certificate, it transpires that petitioner is behind the bars since 11.03.2024 and has undergone a period of 07 months and 14 days as on 24.10.2024. The Investigating Agency has concluded the investigation and filed the final report under Section 173 Cr.P.C. before the concerned Court. Trial of the case has not made much progress and out of total 21 prosecution witnesses, only 01 has been examined so far. So further incarceration of the petitioner without there being the prospect of the conclusion of the trial in the near future, would be violative of Article 21 of the Constitution of India. Culpability, if any, would be determined at the time of the trial.

7. A two Judge Bench of Hon'ble Supreme Court in '**Satender Kumar Antil v. CBI**' (2022) 10 SCC 51, with respect to prevailing conditions of undertrial prisoner in India has observed:

"6. Jails in India are flooded with undertrial prisoners. The statistics placed before us would indicate that more than 2/3rd of the inmates of the prisons constitute undertrial prisoners. Of this category of prisoners, majority may not even be required to be



arrested despite registration of a cognizable offence, being charged with offences punishable for seven years or less. They are not only poor and illiterate but also would include women. Thus, there is a culture of offence being inherited by many of them. As observed by this Court, it certainly exhibits the mindset, a vestige of colonial India, on the part of the investigating agency, notwithstanding the fact arrest is a draconian measure resulting in curtailment of liberty, and thus to be used sparingly. In a democracy, there can never be an impression that it is a police State as both are conceptually opposite to each other.”

8. In view of the ratio of law laid down by Hon’ble Supreme Court in **Prabhakar Tiwari Vs. State of UP and Anr.** 2020(1) RCR (Criminal) 831 and **Maulana Mohd. Amir Rashadi Vs. State of U.P. and Others** 2012(2) SCC 382, the involvement of accused in other criminal cases cannot be the sole ground to deny him the concession of bail.

9. Accordingly, the present petition is allowed. The petitioner-Parveen Kumar is ordered to be released on regular bail, subject to his furnishing bail bonds/surety bonds to the satisfaction of CJM/Duty Magistrate concerned.

10. Nothing observed hereinabove shall be construed to be an expression of opinion by this Court lest it may prejudice the trial. The learned trial Court is directed to proceed with the trial on its own merits, strictly in accordance with law.

October 25, 2024
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(HARPREET SINGH BRAR)
JUDGE

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|------|---------------------------|--------|
| (i) | Whether speaking/reasoned | Yes/No |
| (ii) | Whether reportable | Yes/No |