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IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

CRM-M-61969 of 2023
Date of decision:-29.02.2024

SHIV KUMAR

... Petitioner

Versus

STATE OF HARYANA

... Respondent

CORAM:- HON'BLE MR. JUSTICE SANJIV BERRY.

Present:- Mr. Manoj Tanwar, Advocate
for the petitioner.
Mr. Vishal Malik, DAG, Haryana.

SANJIV BERRY, J. (ORAL)

Learned counsel for the State filed reply dated 11.01.2024 by way of affidavit of Deputy Superintendent of Police, City Karnal, District Karnal, the same is taken on record. Copy thereof, has been supplied to the counsel opposite.

2. The instant petition has been preferred by the petitioner under Section 439 of the Code of Criminal Procedure for grant of regular bail in the following case (Annexure P-1):-

FIR No.	Dated	Sections	Police Station
342	19.09.2020	406, 420, 370, 384, IPC and 24 of the Immigration Act	Civil Line Karnal, District Karnal

3. In nutshell the case putforth by the prosecution is that

complainant Abhiniwas Sharma and his associate intended to go to America for study and job. A relative of the complainant introduced the petitioner Shiv Kumar to them as he is in the business of immigration. A deal was struck between the parties on payment of consideration of ₹20 lacs and out of consideration amount ₹10 lacs were paid in cash in the presence of one Ashok. Instead of sending America petitioner sent them to Azerbaijan, where one Pakistani Agent namely Attasidki met them and they were kept in a hotel for ten days. The petitioner telephonically assured them to send them to America after obtaining visa. At the instance of the petitioner both the victims handed over their passport to the said Pakistani agent. The petitioner failed to fulfill his promise and both the victims had to stay in Azerbaijan for eight months at their expenses and after returning to India filed the Complaint.

4. It is *inter alia* contended by learned counsel for the petitioner that the petitioner is innocent and has been falsely implicated in this case. He contends that the petitioner is in custody since 16.08.2021, charges have been framed way back on 08.03.2022 and prosecution has cited 10 witnesses and none of them has been examined till date. The conclusion of trial in the case which is triable by the Court of Magistrate will take sufficient long time as such he prays for grant of concession of Regular Bail to the petitioner.

5. Per contra, learned State counsel has opposed the bail application by arguing that petitioner had committed heinous crime and does not deserve concession of bail. However, he admits that challan has been presented in court and charges have been framed and out of 10 witnesses

cited by the prosecution none have been examined till date.

6. After considering the rival contentions and going through the record, it transpires that the petitioner was arrested in the present case on 16.08.2021 and after completion of investigation, challan has been presented in court, charges have been framed and the prosecution has cited 10 witnesses and none of them has been examined till date. The conclusion of trial will take sufficient long time in a case triable by the Court of Magistrate to ascertain criminal liability, if any, of the petitioner and no purpose would be served by keeping petitioner in custody any longer.

7. Resultantly, without commenting on the merits of the case, it is observed that no purpose would be served by keeping petitioner behind bars. Therefore, the present petition is allowed. The petitioner is ordered to be released on bail subject to furnishing bail bonds/surety bonds to the satisfaction of learned Trial Court concerned, if not required in any other case; undertaking to regularly appear on each and every date; not to leave the country without prior permission of the Court; and not to tamper with evidence of prosecution in any manner.

8. Any observation made above shall not be construed as opinion of this Court on the merits of the case.

(SANJIV BERRY)
JUDGE

29.02.2024

Gyan	i)	Whether speaking/reasoned?	Yes/No
	ii)	Whether reportable?	Yes/No