



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

CRM-M-23100-2025
Date of decision: 06.05.2025

KHUSHAL SHARMA

...PETITIONER

V/S

STATE OF HARYANA

...RESPONDENT

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Mr. Sukesh Kumar Jindal, Advocate
for the petitioner.

Mr. Ramesh Kumar Ambavta, AAG, Haryana.

HARPREET SINGH BRAR, J. (ORAL)

1. This is the first petition filed under Section 483 of Bharatiya Nagarik Suraksha Sanhita (BNSS) for grant of regular bail to the petitioner in case bearing FIR No.379 dated 19.11.2024 under Sections 406/420/467/468/471/120-B of Indian Penal Code and Sections 10 and 24 of Emigration Act, 1983 registered at Police Station Sadar, Pehowa, District Kurukshetra.

2. In brief, facts of the case are that the complainant-Balram son of Jaswant Singh reported that he was willing to go abroad and he contacted the petitioner along with co-accused persons through Sandeep as said Sandeep was sent abroad by them. The complainant contacted the accused on mobile No.70157-45370 from his mobile No.88140-06615 and accused asked him to come to Kaithal for discussion. The accused assured the complainant that they are certified agents and they are doing the business of sending people abroad. The complainant has paid Rs.5,57,000/- to the accused from time to time for



sending him to Australia. The accused provided a fake VISA to complainant and failed to return the amount of the complainant. Hence, with these allegations the complainant requested to take legal action against the accused and the FIR (*supra*) was registered.

3. Learned counsel for the petitioner, *inter alia*, contends that the petitioner has been falsely implicated in the present case and he is not the beneficiary of the amount paid by the complainant. Further, out of Rs.5,57,000/-, only an amount of Rs.1,20,000/- was credited in the account of the petitioner, which has already been returned to the complainant by him, after the registration of FIR (*supra*). Further, the petitioner is not involved in any other case. The investigation of the case is complete and the trial of the case is triable by Magistrate, which is likely to take long time.

4. Learned State counsel produces the custody certificate of the petitioner, which is take on record and *per contra*, opposes the prayer of the petitioner on the ground that the petitioner has played active role in the alleged crime as he induced the complainant on the false pretext of sending him to Australia. Further, the petitioner is related to the main accused. As such, he does not deserve the concession of regular bail. However, he could not controvert the fact that the petitioner is not involved in any other case.

5. 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.”

6. Having heard learned counsel for the parties and after perusing the record of the case, it transpires that the petitioner is behind the bar since 06.03.2025. Investigation is complete. The final report under Section 173 Cr.P.C. was presented before the concerned Court. The trial of the case has not made any progress as out of 12 witnesses cited by the prosecution, none has been examined so far. The culpability, if any, would be determined at the time of trial. No useful purpose shall be served by further detention of the accused/petitioner. Keeping the petitioner in further detention without the prospect of the trial being concluded in the near future, would be violative of his rights under Article 21 of the Constitution of India.

7. In view of the above, the present petition is allowed. Thus, without commenting upon the merits of the case, lest it may prejudice the outcome of the trial, the petitioner-Khushal Sharma is ordered to be released on regular bail during the pendency of the trial on furnishing bail bonds/surety bonds to the satisfaction of Illaqa Magistrate/Trial Court.



8. Nothing observed hereinabove shall be construed as expression of opinion of this Court on merits of the case and the trial Court shall proceed without being prejudiced by observations of this Court.

May 06, 2025
manisha

(HARPREET SINGH BRAR)
JUDGE

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