

HARWINDER SINGH **...Petitioner**
V/S

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Mr. Sandeep Kumar, DAG Punjab.

HARPREET SINGH BRAR J. (Oral)

- MANISHA
2024.03.12 18:17
I attest to the accuracy and
authenticity of this
order/judgment

CRM-M-11918-2024

embezzled by the Manager Harwinder Singh (petitioner herein) and after the arrest of Harwinder Singh (petitioner herein), he suffered a disclosure statement that out of the snatched amount, Rs. 1,55,00/-, Rs. 55,000/- came to the share of the Akashdeep Singh.

3. Learned counsel for the petitioner *inter alia* contends that similarly situated co-accused namely Akashdeep Singh was granted the concession of regular bail by this Court vide order dated 26.02.2024, passed in CRM-M No.9212 of 2024 (Annexure P-3). The petitioner is behind the bars since 09.11.2023. It is further contended that initially, the complainant has not named the petitioner and a case under Section 379-B IPC was registered against unknown persons and thereafter, the petitioner was implicated in the present case by adding offence under Section 409 IPC.

4. Per contra, learned State counsel opposes the grant of regular bail to the petitioner, on the ground that there is sufficient material available on record to prove the complicity of the petitioner. However, he could not controvert the fact that petitioner is not involved in any other case. Custody certificate filed by the respondent-State is taken on record.

5. Having heard learned counsel for the parties and after perusing the record of the case, it transpires that petitioner is behind the bars since 09.11.2023. Investigating Agency has completed the investigation and submitted the final report under Section 173 of Cr.P.C. before the concerned Court. Out of 11 prosecution witnesses, none 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.

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. In view of the above, the present petition is allowed and the petitioner-Harwinder Singh is ordered to be released on regular bail during trial on his furnishing bail bonds/surety bonds to the satisfaction of Illaqa Magistrate/Trial Court.

7. 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.

March 12, 2024
manisha

(HARPREET SINGH BRAR)
JUDGE

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