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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-12487-2024 in/and
CRM-M-13081-2024
Date of decision: 19.03.2024

Naveen Kumar....Petitioner

Versus

State of Haryana...Respondent

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Mr. Alok Mittal, Advocate
for the applicant/petitioner.

Ms. Geeta Sharma, DAG, Haryana.

HARPREET SINGH BRAR, J. (ORAL)

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Learned counsel for the applicant/petitioner wishes to withdraw the present application.

Dismissed as withdrawn.

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The present petition has been filed under Section 439 Cr.P.C. seeking regular bail in case bearing FIR No.312 dated 18.10.2023 (Annexure P-1) under Sections 406/420/467/468/471/180/120-B of IPC registered at Police Station Ateli, District Mahendargarh, Haryana.

The FIR (*supra*) was lodged on the basis of letter bearing No.2023-24/6 dated 01.08.2023 sent by Branch Manager, Central Co-operative Bank, Branch Ateli in respect of the embezzlement committed by the applicant-accused in the branch of the Bank. It has been alleged in the letter that in

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respect of the embezzlement, one special inquiry committee was constituted on 20.06.2023 and the committee found irregularities/anomalies in various accounts of the account holders. It has been alleged that from the various account holders payments have been withdrawn by putting forged signatures on the withdrawal slips/cheques. In this manner, Naveen has committed embezzlement of Rs.15,36,286/- with the account holders of the bank. On the basis of the above said facts, the present FIR was registered.

Learned counsel for the petitioner *inter alia* contends that the case of the prosecution is based upon the documentary evidence and out of the alleged fraud, the petitioner has already deposited Rs.9.50 lacs with the Bank and petitioner has deep roots in the society and is not a flight risk. He further submits that the investigating agency has already concluded the investigation.

Per contra, the learned State counsel opposes the grant of regular bail to the petitioner on the ground that the petitioner is a habitual offender and is involved in two more FIRs and his complicity is duly established during the investigation.

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.”

Having heard learned counsel for the parties and after perusing the record of the case, it transpires that the petitioner is behind the bars since 11.11.2023. Investigation is complete. The final report under Section 173 Cr.P.C. was presented before the concerned Court on 20.01.2024 and trial of the case has not made much progress as out of 16 prosecution witnesses 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.

Keeping in view the law laid down by the Hon’ble Supreme Court of India in ‘Prabhakar Tewari Vs. State of U.P. and another’ 2020 (1) R.C.R. (Criminal 831) and ‘Maulana Mohd. Amir Rashadi Vs. State of U.P. and Another’, 2012 (2) SCC 382, the involvement of the petitioner in other cases would not be a ground to refuse grant of concession of regular bail.

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In view 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-Naveen Kumar 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.

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.

(HARPREET SINGH BRAR)
JUDGE

19.03.2024
Neha

Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No