

CRM-M-14023-2024

204 IN THE HIGH COURT OF PUNJAB AND HARYANA
CHANDIGARH

CRM-M-14023-2024 (O&M)
Date of Decision: 22.03.2024

MANJEET

...Petitioner

V/S

STATE OF HARYANA

...Respondent

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Ms. Sharmila Sharma, 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. 104 dated 25.04.2022 registered under Sections 406, 420, 467, 468, 471, 212, 506, 201, 34 of Indian Penal Code at Police Station Lakhan Majra, District Rohtak.
2. Present FIR was registered on the statement of complainant Bittu, on the allegations that Pardeep son of Suresh and Manjeet was having excess to his house. Pardeep and Manjeet (petitioner herein) apprised him for having some intimacy in the Railway Department and they also claimed that they got the job of many persons in the Railway Department. They also claimed to get the job of any person if he was interested. He got influenced from the statements of Pardeep and Manjeet (petitioner). A total sum of Rs. 7 lakhs was paid by Satish son of Anandpal for getting the job of Surrender to the uncle of Manjeet and Pardeep. Thereafter, Satish son of Anand Pal upon the asking of Manjeet and Pardeep also handed over a sum of Rs. 1,50,000/- to Harjeet Kaur. The amount got deposited upon asking of the petitioner. In

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this way a huge amount has been extracted by Manjeet (petitioner) and Pardeep. A case under Sections 406, 420, 467, 468, 471, 212, 506, 201, 34 of IPC registered against the accused persons.

3. Learned counsel for the petitioner *inter alia* submits that petitioner is behind the bars since 05.11.2023 and the co-accused Harjeet Kaur, has already been enlarged on bail and the other two co-accused namely Pardeep and Vishnu have been declared as innocent. Investigation of the case has already been completed by the Investigating Agency and the case is triable by Magistrate.

4. Per contra, learned State counsel opposes the prayer for grant of regular bail to the petitioner on the ground that he is main accused and he is involved in two more cases and as such not entitled for the concession of bail.

5. Having heard the learned counsel for the parties and after perusing the record, it transpires that petitioner is behind the bars since 05.11.2023 and trial of the case has not commenced as none out of 21 prosecution witnesses, 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 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.

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

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.

(HARPREET SINGH BRAR)
JUDGE

22.03.2024
Ajay Goswami

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