



in a planned manner forced complainant to invest Rs.1 Crore in a committee out of which accused Nos. 1 and 2 had to give Rs. 60 Lacs balance, regarding which Amit Kumar has entered into compromise dated 27.07.2022 on a stamp paper but after compromise Amit Kumar and Sanjay Kumar have not acted as per the conditions of compromise. It was further alleged that by using a legal brain of some of their companion in a planner manner, stolen original compromise from the clinic of complainant, for which complainant has given one complaint of misplacing (gumshudgi) to S.P. Yamunanagar, on which Amit Kumar told that all papers are with him. Then on 31.12.2022, one complaint was given to S.P. Yamunanagar, but no action was taken upon the said complaint. Therefore, one more complaint dated 17.01.2023 has been given to Inspector General of Police Panchkula and to Chief Minister of Haryana whose investigation was given to Yamunanagar police but no action was taken against accused persons. Earlier also one case was registered at Police Station Rajpura Distt. Patiala. One case was also registered against accused No. 2 Sanjay Kumar in Police Station Panjokhra Distt. Ambala, all these accused again and again are entering into the agreement to sell for one land and are cheating people by preparing a fraudulent bank draft. Complainant also came to know that fourth accused Sanjeev Kumar alias Bantu also attacked on some person. Against accused No. 3 Dilshad, there is a non-bailable warrant from Jagadhri Court. Prayer for taking legal action against all accused persons was made and money of complainant be got recovered. On the basis of aforesaid allegations, FIR(supra) was lodged.

3. Learned counsel for the petitioner *inter alia* contends that the present controversy revolves around the agreement to sell dated 09.12.2020 and as per the said agreement, the target date of registration of the sale deed



was fixed for 10.06.2021. When complainant was unable to arrange the sale consideration, the aforementioned agreement was cancelled and a purely civil dispute is given the colour of criminal prosecution. It is further contended that case of the prosecution is entirely based upon the documentary evidence and all the offences are triable by Magistrate and the earlier bail application of the petitioner was dismissed as withdrawn on 21.03.2024 and liberty was given to press the bail application before the learned trial Court. Learned counsel for the petitioner further submits that identically situated co-accused namely Navdeep Singh has been granted anticipatory bail by this Court vide judgment dated 21.05.2024 passed in CRM-M-9077-2024 and two more accused persons have also been granted anticipatory bail by the Court of learned Additional Sessions Judge, Yamunanagar.

4. Per contra, the learned State counsel assisted by learned counsel for the complainant opposes the prayer made by learned counsel for the petitioner on the ground that accused persons along with present petitioner have hatched a conspiracy and cheated the complainant and there is sufficient material available on record to indicate the complicity of the petitioner in the present case.

5. Having heard the learned counsel for the parties and after perusing the record, it transpires that petitioner is behind the bars since 07 months and 13 days as on 22.07.2024. Similarly situated co-accused has also been allowed the concession of anticipatory bail by this Court. Trial of the case is likely to take long time to conclude. 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.

6. 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 demo cracy, there can never be an impression that it is a police State as both are conceptually opposite to each other.”

7. Accordingly, the present petition is allowed. The petitioner- Gurwinder Singh 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.

July 24, 2024
Ajay Goswami

(HARPREET SINGH BRAR)
JUDGE

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