

CRM-M-35040-2023 (O & M)
Date of decision: 08.02.2024

...PETITIONER

V/S

...RESPONDENT

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Mr. Navjot Singh, Advocate for the petitioner.

Mr. Subhash Godara, Addl. A.G., Punjab.

HARPREET SINGH BRAR J. (ORAL)

CRM-29757-2023

The instant application has been filed for grant of leave to filing the present case without number of roll of advocate which is necessary to file the fresh case as per notification of this Court dated 30.05.2022.

For the reasons mentioned in the application, same is allowed.

MAIN CASE

This is the first petition filed under Section 439 Cr.P.C. seeking regular bail in case bearing FIR No.0227 dated 17.07.2022 registered under Sections 181, 195, 419, 420, 466, 468, 471, 474 and 120-B of Indian Penal Code at Police Station Civil Lines, District Police Commissionerate Amritsar, Punjab.

2. The prosecution case is based on the allegations that the petitioner along with co-accused Des Raj, have furnished the surety bonds, as surety and identifier of Harjinder Singh, whereas, the actual name of Harjinder Singh is

Surjit Kumar and co-accused Des Raj has also impersonated some other person. The petitioner has represented himself as *Numberdar*, who has identified the surety, co-accused Des Raj. During investigation, it was found that petitioner and co-accused have furnished bail bonds and surety bonds for accused Anand Kapoor, are forged and fabricated documents.

3. Learned counsel for the petitioner *inter alia* contends that entire case of prosecution is based upon documentary evidence, which is already in possession of the investigating agency, and the petitioner is behind the bars since 19.07.2022 and the trial of the case has not made any progress till date. The charges are framed only on 23.01.2024. As such, the delay in trial infringes the fundamental rights of the petitioner under Article 21 of Constitution of India. The petitioner is not involved in any other case.

4. Per contra, the learned State counsel opposes the grant of regular bail to the petitioner on the grounds that the petitioner has committed a serious offence and which has the potential to disrupt the administration of justice.

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 bars since 19.07.2022 as per custody certificate. The investigation is complete. 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. Keeping in view the facts and circumstances of the case, the present petition is allowed without commenting upon the merits of the case lest it may prejudice the outcome of the trial and the petitioner-Surjit Kumar @ Harjinder 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.
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.

February 08, 2024
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(HARPREET SINGH BRAR)
JUDGE

- (i)

Whether speaking/reasoned

Yes/No
- (ii)

Whether reportable

Yes/No