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IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

Crl. Misc. No. M-41212 of 2023
Date of Decision: February 14, 2024

Jashandeep Singh
.....Petitioner
versus

State of Punjab
.....Respondent

CORAM: HON'BLE MR.JUSTICE HARPREET SINGH BRAR

Present:- Mr. Rakesh Gupta, Advocate
for the petitioner

Mr. Rishabh Singla, AAG Punjab

Ms. Tejaswini, Advocate for
Mr. Shiv Kumar, Advocate for the complainant

Harpreet Singh Brar, J. (Oral)

1. This is the first petition filed under Section 439 of Code of Criminal Procedure for grant of regular bail to the petitioner in case FIR No.125 dated 29.06.2023 registered under Sections 381 and 120-B of Indian Penal Code at Police Station City-I, Sangrur.
2. The present FIR was lodged on the allegations that the petitioner alongwith Reeshu Dev and Lakhwinder Singh @ Lucky were working in the shop of the complainant, situated in front of Civil Hospital. Reeshu Dev has been working for the last three years and Lakhwinder Singh @ Lucky has been working for the last six months. The petitioner was working as Medical Representative and he often used to visit the shop of the complainant. The complainant has a very strong suspicion that the medicines stock in his shop are being stolen. On 19.05.2023, when the shop was to be closed, the father of the complainant noticed that Reeshu Dev had separated some of the medicines at the time of closing of the shop.

3. Learned counsel for the petitioner *inter alia* contends that it was the co-accused Reeshu Dev, who was employee at the complainant's shop and he was found to have taken out different strips of medicines from different stocks. The petitioner was not the employee of the complainant rather he was working as a Medical Representative. The alleged incident had taken place on 19.05.2023 and the FIR was lodged on 19.06.2023 after due deliberation and the case set up by the prosecution is highly improbable. As per the version of the complainant in the FIR, he was having suspicion that the medicines are being stolen for the last one year, however, no complaint was made before the concerned jurisdictional police authority. The main accused Reeshu Dev has been granted the concession of regular bail by this Court vide order dated 11.01.2024 passed in CRM-M-275-2024. He further submits that no record has been provided by the complainant which could establish the value of medicines, which were found missing from the stock of the complainant. The petitioner is not involved in any other case and he is behind the bars since 06.07.2023.

4. Per contra, the learned State counsel, on instructions from ASI Manoj Kumar, opposes the prayer of grant of regular bail to the petitioner on the ground that the petitioner is involved to have taken away medicines worth Rs. 25-30 lacs and the co-accused Reeshu Dev was found stealing the medicines in the CCTV footage.

5. Having heard the learned counsel for the parties and after perusing the record of the case, it transpires that the case of the petitioner is at better footing than co-accused Reeshu Dev, who has been granted the concession of regular bail by this Court vide order dated 11.01.2024 passed in CRM-M-275-2024. The investigating agency has already concluded the investigation and

submitted the final report under Section 173 Cr.P.C. on 29.11.2023. The trial of the case has not made any progress yet as none of the prosecution witnesses has been examined so far. The case is triable by Magistrate and maximum sentence provided under Section 381 of IPC is up to 07 years. Culpability, if any, would be determined at the time of the trial. No useful purpose would be served by further detention of the accused-petitioner.

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 democracy, there can never be an impression that it is a police State as both are conceptually opposite to each other."

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-Jashandeep 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.

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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

February 14, 2024
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Whether speaking/reasoned : Yes/No
Whether Reportable : Yes/No