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**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

CRM-M-48666-2023

Date of decision: 19.01.2024

Darshan Singh

....Petitioner

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Mr. Balbir Singh Sewak, Advocate
for the petitioner.

Mr. Sandeep Kumar, DAG, Punjab.

HARPREET SINGH BRAR, J. (ORAL)

This is second petition under Section 439 Cr.P.C. seeking regular bail to the petitioner in case bearing FIR No.380 dated 28.12.2018 under Sections 420/120-B of IPC registered at Police Station Shimlapuri, Ludhiana.

This Court vide order dated 17.07.2023 had granted liberty to the petitioner to file a fresh petition after the petitioner returns to the custody of the jail authorities of the State of Punjab.

The FIR was lodged on the allegations that Jaswinder Singh, Kulpreet Singh, Ajaib Singh and Darshan Singh (the present petitioner) have influenced the complainant and other many innocent investors on the pretext of networking business. They used to instigate the people to invest the money which shall be doubled in two years. Post dated cheques used to be given. Many persons invested their hard earned money and ultimately all the above mentioned accused persons fled away from the address where they were

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running the business. These persons used to conduct the seminars and programs. Later on, the company has stopped working and mobile phones of all the persons were out of reach. On inquiry by the police, it was discovered that number of investors had invested their money and had made complaints in this regard. Owner of the building reported that their shop has already been vacated and the tenant Jaswinder Singh, MD has gone for unknown destination. When these persons tried to reach at their residence, neighbour informed them that lot of many other folks were coming but these persons fled away from their residence, and, therefore, the present case was registered.

Learned counsel for the petitioner *inter alia* contends that the perusal of the FIR would indicate that vague allegations have been levelled against the petitioner and no detail of any amount which is alleged to be deposited in the Company have been given. The petitioner is an employee in the lower hierarchy of the Company doing labour job and has been made a scapegoat in the present case. The petitioner is in custody since 19.11.2022 and Investigating Agency has already completed the investigation. He further submits that similarly situated main accused, namely, Jaswinder Singh and co-accused, namely, Ajaib Singh have been granted the concession of regular bail vide orders dated 28.09.2022 passed in CRM-M-991-2022 titled as 'Jaswinder Singh Vs. State of Punjab' (Annexure P-3) and 22.05.2023 passed in CRM-M-24164-2023 titled as 'Ajaib Singh Vs. State of Punjab' (Annexure P-4), respectively.

Per contra, the learned State counsel submits that the petitioner was initially declared as proclaimed offender on 14.10.2021 and he was arrested on 19.11.2022. He further submits that he is involved in three more cases and

since, the serious allegations of fraud have been levelled against him, he does not deserve the concession of regular bail.

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 for the last 01 year 01 month and 26 days and similarly situated main accused, namely, Jaswinder Singh and co-accused, namely, Ajaib Singh have been granted the concession of regular bail vide orders dated 28.09.2022 passed in CRM-M-991-2022 titled as 'Jaswinder Singh Vs. State of Punjab' (Annexure P-3) and 22.05.2023 passed in CRM-M-24164-2023 titled as 'Ajaib Singh Vs. State of

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Punjab’ (Annexure P-4), respectively. Investigation is complete. The final report under Section 173 Cr.P.C. was presented before the concerned Court on 17.01.2023 and trial of the case has not made much progress as only 01 out of 43 prosecution witnesses have 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.

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-Darshan 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.

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

19.01.2024
Neha

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