

CRM-M-64711-2023
Date of decision: 08.01.2024

...PETITIONER

V/S

...RESPONDENTS

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Mr. Sandeep Kumar, DAG, Punjab.

HARPREET SINGH BRAR J. (ORAL)

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.067 dated 27.05.2023 registered under Sections 406 and 420 of Indian Penal Code, at Police Station Nangal, District Rupnagar, Punjab.

2. The present FIR was lodged on the basis of complaint made by Rakesh Katwal on the allegations that petitioner along with other accused have committed fraud with the complainant to the tune of Rs.10,50,000/- on the pretext of sending him abroad on work permit. The complainant was provided a fake appointment letter and fake VISA. The petitioner and his co-accused have received the amount in question through various transactions made via Paytm and RTGS. The complainant has shown the source of money, which he has withdrawn Rs.5,00,000/- from his bank account.

3. Learned counsel for the petitioner *inter alia* contends that the petitioner has been falsely implicated in the present case. The petitioner is in

fact the cousin brother of the complainant and not even a single penny has been received by the petitioner and he has no connection whatsoever with the alleged fraud committed with the complainant. The petitioner is behind the bars since 20.08.2023, and, the case is triable by the Magistrate and maximum sentence provided under Section 420 IPC is up to 07 years.

4. Per contra, the learned State counsel opposes the prayer of grant of regular bail to the petitioner on the ground that his complicity is clearly established and there is sufficient material on record to establish the role of the petitioner in cheating the complainant. The complainant has suffered immense hardship while being present in Dubai due to the cheating committed by the petitioner and co-accused.

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 the learned counsel for the parties and after perusing the record of the case, it transpires that the petitioner is behind the bars since 20.08.2023 and the investigating agency has already concluded investigation and submitted the final report on 29.11.2023. Trial of the case has not made

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any progress yet as out of 14 witnesses cited by the prosecution, none has been examined so far. 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. 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, the petitioner-Prince 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.

January 08, 2024
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(HARPREET SINGH BRAR)
JUDGE

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