

PRIYANKA

V/S

STATE OF HARYANA

...RESPONDENT

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Mr. Sanwar Ali, Advocate for the petitioner.

Mr. Vikas Bhardwaj, AAG, Haryana.

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.567 dated 10.09.2022 registered under Sections 406, 420 and 506 of Indian Penal Code (later on added Sections 467, 468, 471 IPC) at Police Station Kharkhoda, Sonipat (Haryana).

2. The present FIR was lodged on the allegations that the petitioner and other co-accused are neighbours of the complainant and they had induced the complainant to pay Rs.5,50,000/- on the pretext of getting him employed in Railway as Constable (RPF). The husband of the petitioner informed the complainant that his name has been included in the selection list and handed him over the appointment letter. After the complainant made inquiry in this regard, he found that the appointment letter and selection list were fake. The complainant approached the accused for returning his money but they refused to return money and threatened to kill him, in case he demands the amount back. Similar complaints were filed by other persons against the petitioner

along with other accused and they have duped 5 to 6 persons in the same manner. After the arrest of the petitioner, her disclosure statement was recorded and investigating officer found that she has deposited Rs.2,50,000/- out of the amount received from the concerned persons in the account of co-accused, namely, Poonam.

3. Learned counsel for the petitioner *inter alia* contends that the petitioner is a household lady and she has been falsely implicated in the present case. In fact, she herself is a victim of the fraud as the main accused Poonam has cheated the petitioner and has handed her over a fake ID and appointment letter. Learned counsel further submits that there is no evidence against the petitioner apart from the statement made by the complainant.

4. Per contra, the learned State counsel, on instructions from SI Ravidass, opposes the prayer of grant of regular bail to the petitioner on the ground that sufficient material has been collected by the investigating agency to indicate the complicity of the petitioner in the present FIR.

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 26.09.2023. Trial of the case has not made any progress yet as out of 21 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 and the petitioner-Priyanka is ordered to be released on regular bail during trial on her 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.

9. Pending application(s), if any, also stand disposed of.

January 15, 2024

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(HARPREET SINGH BRAR)
JUDGE

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