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

CRM-M-6097-2025

Date of decision: 06.02.2025

Sahil Kumar

....Petitioner

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR**Present:** Mr. Prateek Pandit, Advocate
for the petitioner.

Mr. Sandeep Kumar, DAG, Punjab.

HARPREET SINGH BRAR, J. (ORAL)

The present petition has been filed under Section 483 of Bharatiya Nagarik Suraksha Sanhita, 2023 seeking regular bail in case bearing FIR No.10 dated 09.10.2024 (Annexure P-1) under Section 318(4) of Bharatiya Nagarik Suraksha Sanhita, 2023 (earlier Section 420 of IPC) registered at Police Station Cyber Crime District Kapurthala.

The FIR (*supra*) was registered on the statement of the complainant by alleging that his sister, namely, Balvir Kaur has bank account in Punjab National Bank and he used to use the ATM of his sister since she got married seven months ago from the date of occurrence. It is further alleged that on 25.08.2024 at around 03:30 P.M., when he went to ATM to withdraw some money, he forgot the PIN. In the meantime, clean shaven Hindu gentleman who was pretended that he has repaired the ATM asked the complainant for his ATM and the complainant handed over the same to him. Thereafter, he asked the complainant for the OTP from his mobile phone and then asked him to check the balance. He again took his ATM and returned it to



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him immediately and left the place. Thereafter, when the complainant inserted his ATM in the machine, the amount was not disbursed but at the same time he received a message regarding withdrawal of Rs.45,000/- from ATM of Aujla Fatak and he came to know that the said person has exchanged his ATM and thus, the instant FIR got registered.

Learned counsel for the petitioner *inter alia* contends that the alleged incident had taken place on 25.08.2024, however, the FIR (*supra*) was registered on 09.10.2024 and the delay in the registration of the FIR has not been explained. Thereafter, the petitioner and the complainant have effected a written compromise dated 17.01.2025 which is available on record as Annexure P-2. He further submits that on the basis of said compromise, a quashing petition bearing CRM-M No.7166 of 2025 titled as 'Sahil Kumar Vs. State of Punjab and others' seeking quashing of FIR (*supra*) has already been filed before this Court which is pending adjudication for 07.03.2025. It is further submitted that the petitioner has effected a compromise with all six persons who are alleged to have been cheated by the petitioner as discernible from Annexure P-2 and investigation of the case is complete.

At this stage, Mr. Aman Kumar, Advocate puts in appearance on behalf of the complainant and files his *vakalatnama* in the Court today which is taken on record. He submits that he has no objection in case the petitioner is granted bail as the amount in question has been received by the complainant.

Per contra, the learned State counsel opposes the grant of regular bail to the petitioner on the ground that the petitioner is a habitual offender and he has committed a similar cyber fraud against six persons and thus, he does not entitle to the relief 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 since 09.10.2024. Investigation is complete. The final report under Section 173 Cr.P.C. was presented before the concerned Court and trial of the case has not made much progress as out of 17 prosecution witnesses, none has 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



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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-Sahil Kumar 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

06.02.2025

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