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

CRM-M-20439-2025

Date of decision: 25.04.2025

Gopal Singh

....Petitioner

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR**Present:** Mr. Manjeet Singh, 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.5 dated 17.01.2019 (Annexure P-1) under Sections 420/465/467/468/471 of IPC registered at Police Station Aur, District SBS Nagar.

Brief facts of the case are that the FIR (supra) was registered on the statement of the complainant by alleging that the accused/petitioner has duped him for a sum of Rs.13,40,000/-. It is further alleged that the complainant is an agriculturist having credit limit and agriculture limit in HDFC Bank, Branch Aur. In the month of May, 2018, accused/petitioner along with other bank officials approached the complainant and told him that if he closed his present credit limit, they can prepare new credit limit with an enhanced amount. The complainant believed them and for closing the credit limit, has given three cheques bearing No.000004, 0000020 and 0000021 dated 23.05.2018, 24.05.2018 and 23.05.2018 amounting to Rs.2,83,000/-; Rs.2,67,000/- and Rs.8,00,000/-, respectively and one cancelled cheque bearing



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No.0000019. Thereafter, after 20-25 days, complainant came to know that the accused/petitioner has misused his cheques and cheated him and withdrawn an amount of Rs.13,40,000/- from his account and when the complainant contacted the accused/petitioner, he has returned him Rs.2,40,000/- in cash and also deposited Rs.2,10,000/- in his account and given a cheque of the remaining amount of Rs.8,90,000/- but the same was dishonoured and thus, the instant case.

Learned counsel for the petitioner *inter alia* contends that as per the case set up by the prosecution, the petitioner has allegedly cheated the complainant of Rs.13,40,000/-. He has already repaid Rs.11 lakhs to the complainant in terms of the compromise (Annexure P-2). The offences are triable by the Magistrate. Further, the factual ingredients to invoke the offence under Sections 465/467/468/471 of IPC are not available on record. He further submits that till date, out of 13 prosecution witnesses, none has been examined so far. He fairly contends that the petitioner was initially declared as proclaimed offender, however, he prays for taking lenient view in terms of the compromise.

The learned State counsel has filed custody certificate in the Court today which is taken on record and per contra, opposes the grant of regular bail to the petitioner on the ground that petitioner is a habitual offender and he is involved in four more cases of similar nature and he was declared as proclaimed offender.

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 12.12.2024. 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 13 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 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.

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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-Gopal 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

25.04.2025*Neha*

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