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

CRM-M-24754-2025

Date of decision: 14.07.2025

Mohit @ Mohit Saini

....Petitioner

Versus

UT of Chandigarh and another

...Respondents

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

Mr. Manish Bansal, P.P., U.T. Chandigarh.

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.42 dated 03.04.2024 under Sections 420/406/120-B of IPC (Section 24 of Immigration Act added later on and Section 406 of IPC deleted later on) registered at Police Station Sector 34, Chandigarh.

The brief facts of the case are that on 26.12.2023, the complainant had applied for work permit in Australia through Serkan Migration and when the complainant approached them, he met with the present petitioner who got his medical conducted on 07th September and an amount of Rs.1 lakh was paid on 1st September into the Federal Bank Account. It is further alleged that on 1st November, 2023, the complainant paid an amount of Rs.7 lakh to the petitioner in cash at Hotel Junction, Ambala Cantt and a paper visa was handed over to the complainant for Australian work permit. Thereafter, he came to know that the said work permit was found to be fake and upon confrontation, the petitioner denied refund and rather threatened the complainant with dire



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consequences 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 induced the complainant and committed a fraud of Rs.16.50 lakh. Surprisingly, the complainant has not been able to show the source of the amount in question and also the manner in which the same has been paid. Admittedly, an amount of Rs.1.50 lakh has been credited through banking transaction in the account of the petitioner and the co-accused. He further submits that there is no corroborative material, either forensic or otherwise, available to prove the complicity of the petitioner. The FSL report is still awaited and petitioner is behind the bars since 07.08.2024. Investigation is complete, final report was presented on 01.10.2024 and charges were framed on 08.10.2024. Further, offences under which the FIR (*supra*) is registered, are triable by Magistrate and till date out of 12 prosecution witnesses, only 02 have been examined.

The learned counsel for U.T. Chandigarh 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 keeping in view his criminal antecedental behaviour, he is not entitled to any relief. He further submits that the petitioner is involved in 08 other FIRs with allegations of similar nature.

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 07.08.2024. Investigation is complete. The final report under Section 173 Cr.P.C. was presented before the concerned Court on 01.10.2024. Charges were framed on 08.10.2024 and trial of the case has not made much progress as only 02 out of 12 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-Mohit @ Mohit Saini, is ordered to be released on

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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

14.07.2025*Neha*

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