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

CRM-M-27636-2025

Date of decision: 23.05.2025

Kanwaljit Singh Bala

....Petitioner

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Mr. G.S. Punia, Senior Advocate with
Mr. Angad Chahal, Advocate,
Mr. Gurkirat Singh, Advocate and
Mr. Aishveer Singh, Advocate
for the petitioner.

Mr. Nitesh Sharma, 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.215 dated 29.09.2023 under Sections 406/420 of IPC registered at Police
Station City Rupnagar.

Summarily, the facts of the case are that the accused/petitioner
deceived the complainant and dishonestly induced him to pay a total sum of
Rs.13,65,000 during the year 2021, on multiple occasions, under the pretext of
facilitating his travel abroad and for purported investment in an oil supply
business involving a foreign company named Johnson & Johnson, however, he
has neither sent him abroad nor returned his amount despite repeated calls and
thus, the instant case.

Learned senior counsel for the petitioner *inter alia* contends that the
petitioner is 71 years of age and he is suffering from severe health issues like
brain stroke, cardiac problems and his one leg is already amputated. The doctor



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has recommended certain procedure for the second leg also. The dispute between the parties is purely civil in nature. The subject matter of the dispute is Rs.13,65,000/-. Further, the FIR (*supra*) has been registered under Sections 406/420 of IPC which is antithesis to each other and he further relies on the judgment of the Hon'ble Supreme Court passed in 'Delhi Race Club (1940) Ltd. Vs. State of U.P.' (2024) 10 SCC 690. He further relies upon the medical record of the petitioner (Annexures P-3 and P-4) of various hospitals including PGIMER, Chandigarh and Max Super Speciality Hospital, Mohali. The petitioner cannot perform his daily chores and he requires continuous assistance even to stand. He is behind the bars since 29.03.2025 and the offences are triable by Magistrate.

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 and earlier also, he remained absconded and was declared as proclaimed offender, as such, he is not entitled to any relief.

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

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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 29.03.2025. 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 08 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.

However, without commenting further on the merits of the case, keeping in view the age of the petitioner and his medical record, 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-Kanwaljit Singh Bala, 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.

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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

23.05.2025*Neha*

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