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

CRM-M-39839-2024

Date of decision: 22.04.2025

Arvind Kumar Datta @ Arvind Kumar

...Petitioner

Versus

State of Punjab

...Respondent

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

Mr. Sandeep Kumar, DAG, Punjab.

Mr. Gaurav, Advocate for
Mr. Sanjeev Goyal, Advocate
for the complainant.**HARPREET SINGH BRAR, J. (ORAL)**

The present petition has been filed under Section 439 Cr.P.C. seeking regular bail in case bearing FIR No.42 dated 12.03.2024 under Section 408 of IPC registered at Police Station 'A' Division, Amritsar (Annexure P-1).

Brief facts of the case are that Blue Dart Company represented by its Area Manager, alleges that the company engaged in courier services and receive cash on delivery, experienced a loss of Rs.66,46,496/- between 26.02.2024 and 07.03.2024. The amount was handled by the accused/petitioner, who was employed as a manager. However, the accused/petitioner is accused of misappropriating the entire sum and failing to account for it. He provided false explanations about shortcoming of Rs.7 lakhs in October, 2018 and claimed that Rs.10 lakhs were found missing from the drawer on the very next day. He also alleged that Rs.37 lakh was snatched from him, but none of these incidents



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were reported to the police or the company and thus, the present case.

Learned counsel for the petitioner *inter alia* contends that the case set up by the prosecution is highly improbable and the petitioner alone has been made a scapegoat, whereas, he was only working as a Senior Accountant in the company of the complainant and allegation of misappropriation of amount of Rs.66 lakhs have been made against him. The petitioner alone is not competent to handle and process the amount in question. The entire case set up by the prosecution is based upon documentary evidence. He further submits that the petitioner has suffered incarceration of more than one year and the case is triable by Magistrate and also, the petitioner is not involved in any other case.

The learned State counsel assisted by learned counsel for the complainant 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 the petitioner has misused his official position by circumventing the collection management services by generating fake slips. The petitioner has collected the entire amount and misappropriated the same, 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 of the investigating



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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 18.03.2024. 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 only 02 out of 17 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.

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-Arvind Kumar Datta @ Arvind 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

22.04.2025

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