



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

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CRM-M-47262-2024 (O&M)
Date of decision: 05.03.2025

Raja @ Raja Komboj @ Raja Sidhu @ Raj Sidhu
.....Petitioner
Versus
State of Punjab
.....Respondent

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Mr. Raman Mohinder Sharma, Advocate
for the petitioner.

Mr. Sandeep Kumar, DAG, Punjab.

Mr. Rhythem Bajaj, Advocate
for the complainant.

HARPREET SINGH BRAR J. (Oral)

1. Prayer in this petition filed under Section 439 Cr.P.C., is for grant of regular bail to the petitioner in FIR No.87 dated 03.08.2024 registered under Sections 379, 419, 420, 465, 467, 468, 471, 120-B IPC at Police Station Khuian Sarwar, District Fazilka.
2. The brief facts of the case are that the FIR (supra) was got registered on the statement of complainant Sunil Kumar son of Jeet Kumar resident of village Jandwala Hanwanta Tehsil Abohar, who stated that he is running a Cafe in the name of Vinayik Cybre Cafe at village Patti Billa. He is having account No. 50100446513801 in HDFC Bank, Branch Khuian Sarwar, which is attached with Credit Card No.8645. He has also been issued an ATM card. He further stated that Raja Kamboj son of Suresh Kumar resident of village Patti Billa used to

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visit his shop since April, 2024 and used to help him in running his shop. In the month of April, 2024, his ATM card had been stolen and through said ATM, by hacking his account, 03 new ATM cards were got issued. Thereafter, on 13.05.2024, through new ATM card No.8792, an amount of Rs.10,000/- and Rs.6,000/- had been withdrawn. Then on 15.05.2024, his 02 fixed deposits amounting to Rs.1,12,130/- and Rs.84,378/- from HDFC Branch Sri Ganganagar had been got withdrawn and on inquiry, he came to know that after preparing forged documents, in connivance with the bank officials, Raja Kamboj withdrew the aforesaid FDRs by appending his forged signatures. Thereafter on 15.05.2024, Raja Kamboj through different transactions got withdrawn an amount of Rs.1,00,000/- through ATM No.8792 and purchased an i-phone from Guru Nanak Telecom worth Rs.92,000/- in his name and also swiped one more card for an amount of Rs.9500/-. Thereafter, on 29.05.2024, Raja Kamboj withdrew an amount of Rs.3,00,000/- being an Insta Job loan and on 29.05.2024 through different transactions he withdrew an amount of Rs.2,00,000/- through ATM No.4338, on 30.05.2024 through different transactions and withdrew an amount of Rs.1,40,000/- and also made payment of Rs.950/- to Parkash Opticals, Sri Ganganagar. On 03.06.2024, Raja Kamboj got sanctioned loan of Rs.3,00,000/- from his account and on 04.06.2024, through different transactions, he withdrew Rs.2,00,000/- through ATM No.4338 and also withdrew Rs.1,00,000/- through different transactions through ATM No.4338. On being inquired, he



came to know that after stealing his ATM card and then hacking his account, Raja Kamboj, in connivance with bank officials of HDFC Branch Sri Ganganagar, after preparing forged documents, committed fraud of hefty amount with him.

3. Learned counsel for the petitioner *inter alia* contends that the petitioner has been made scapegoat and in fact, the jurisdictional police authorities have not investigated the complicity of the employer of the petitioner namely Sunil Kumar and the entire case set up by the prosecution hinges upon the ATM Card of Sunil Kumar and the petitioner has suffered the incarceration since 03.08.2024 and the investigation is complete and the petitioner is a young boy of 18 years of age, having clean antecedents and out of 20 prosecution witnesses cited in the list of witnesses, none has been examined so far and the trial of the case is likely to take long time in conclusion.

4. *Per contra*, learned State counsel assisted by learned counsel for the complainant, has filed reply by way of affidavit of Sukhwinder Singh Brar, Deputy Superintendent of Police, Sub-Division Abohar, District Fazilka along with custody certificate, today in the Court which are taken on record and he opposes the prayer made by learned counsel for the petitioner on the ground that the petitioner has forged and fabricated several documents and has committed a cheating of Rs.10.00 lacs approximately and to prove the complicity of the petitioner in the alleged crime, the CCTV footage is there and as such, his identity in committing the crime has been duly established, however,



he could not controvert the fact that the petitioner is not involved in any other case.

5. Having heard learned counsel for the parties and after perusing the record of the case, it transpires that the petitioner is behind the bars from the last 06 months and 26 days. Investigation is complete. The final report under Section 173 Cr.P.C. was presented before the concerned Court. Charges were framed and trial of the case has not made much progress. Out of 20 prosecution witnesses, no PW has been examined so far.

6. A two Judge Bench of Hon'ble Supreme Court in ***“Satender Kumar Antil vs. 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.”



7. Further the culpability, if any, would be determined at the time of trial and as such, no useful purpose will be served by further detention of the petitioner-accused. 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.

8. In view the discussion above, the present petition is allowed. Accordingly, without commenting upon the merits of the case, the petitioner namely Raja @ Raja Komboj @ Raja Sidhu @ Raj Sidhu is ordered to be released on regular bail during pendency of the trial, on his furnishing bail bonds/surety bonds to the satisfaction of Illaqa Magistrate/Trial Court/Duty Magistrate.

9. Nothing observed hereinabove shall be construed to be expression of an opinion by this Court on merits of the case. The learned Court below is directed to proceed with the matter on its own merits, lest it may prejudice the trial.

(HARPREET SINGH BRAR)
JUDGE

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Whether speaking/reasoned: Yes/No

Whether reportable: Yes/No