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IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

CRM-M-55707-2024 (O&M)

Date of Decision: 07.03.2025

BALVIR SINGH

...PETITIONER

Versus

STATE OF PUNJAB

...RESPONDENT

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Mr. R.S. Dhaliwal, Advocate
for the petitioner.

Mr. Sandeep Kumar, DAG Punjab

Harpreet Singh Brar, J. (Oral)

1. The present petition has been filed under Section 483 of Bharatiya Nagarik Suraksha Sanhita, 2023 seeking grant of regular bail to the petitioner in case bearing FIR No. 322 dated 17.08.2019 under Sections 420 and 34 of Indian Penal Code (for short "IPC") registered at Police Station City Barnala, District Barnala (Annexure P-1).

2. FIR(supra) was registered on the application moved by complainant Gurmeet Singh against Gurbachan Singh owner of Hollistic Consultant, Chandigarh and Balvir Singh (petitioner herein) on the allegations of collecting crores of rupees by giving forged joining letters. It is mentioned in the application that one organization namely SSUSKAA has formed website www.ssuska.co and they have given an advertisement that a survey of pregnant ladies is to be done under Jan Janani Yojna Surakhiya Scheme and as per scheme of the Government they have to be given free medicines from time to time to perform this work. The block co-ordinator are to be employed and each employee will get the salary of Rs. 18,500/- per month. Then in-charge of the organization Gurcharan Singh (co-accused) called them at his office and told

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them that salary of District Co-ordinator is Rs. 30,000/- and Block Co-ordinator is Rs. 18,500/- and for providing the employment, both the accused persons took an amount of Rs. 13,90,000/- as a bribe. Then 12 workers including the present complainant were appointed in District Barnala. But no salary was provided to them and when they raised the demand for the payment of salaries then Gurcharan Singh gave a cheque bearing no. 135621 of State Bank of India, Medical Institute, PGI, Sector-12, Chandigarh but no amount was found in the said account. It was further alleged that both accused Gurcharan Singh and present petitioner have cheated them by making advertisement on the website. During the inquiry it was found that Gurmeet Singh-complainant become acquainted with the petitioner and Gurcharan Singh and Balvir Singh had committed cheating with the complainant and his colleagues by taking them in confidence and alluring them to provide job and had also issued the fake joining letters to them. Gurmeet Singh gave Rs. 1,40,000/- to present petitioner, Kulwinder Singh gave Rs. 2 lakh to Gurcharan Singh and Rs. 1,50,000/- was also received by Gurcharan Singh at Court Chowk, Barnala from Kulwinder Singh. On the basis of this application, the present FIR(s) was registered against the above said accused persons were arrested.

3. Learned counsel for the petitioner *inter alia* contends that the similarly situated co-accused namely Gurcharan Singh has been granted the concession of regular bail by the Co-ordinate Bench of this Court vide order dated 16.05.2024 passed in CRM-M-13743-2024 (Annexure P-3) and all the offences in the FIR(supra) are triable by Magistrate and the investigation of the case is complete. The allegations against the present petitioner are that petitioner along with co-accused Gurcharan Singh duped the complainant to the tune of

Rs. 7,45,000/- and the petitioner received some amount in his SBI bank

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account for providing employment to the complainant. The case of the petitioner is at par with the co-accused Gurcharan Singh, who has already been granted the concession of regular bail by the Co-ordinate Bench of this Court. As such, on the ground of parity, the petitioner is also entitled to grant of regular bail. Petitioner has suffered incarceration for more than 05 months.

4. Learned State counsel files the custody certificate and status report dated 06.03.2025, which are taken on record and *per contra* opposes the prayer made by learned counsel for the petitioner on the ground that petitioner along with his co-accused have duped several innocent citizens on the pretext of providing employment to them in Government departments and there is sufficient material to prove the complicity of the petitioner. However, he could not controvert the fact that similarly situated co-accused Gurcharan Singh has been granted the concession of regular bail by the Co-ordinate Bench of this Court vide order dated 16.05.2024 passed in CRM-M-13743-2024.

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 since 09.09.2024 i.e. 05 months 25 days as on 06.03.2025 and out of total 11 prosecution witnesses, none has been examined so far, therefore, the conclusion of trial will take sufficient long time. Culpability, if any, would be determined at the time of the trial. The petitioner is not involved in any other case.

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 under-trial 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,

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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.”

6. In view of the above, the present petition is allowed and the petitioner-Balvir Singh is ordered to be released on regular bail, subject to his furnishing bail bonds/surety bonds to the satisfaction of CJM/Duty Magistrate concerned.

7. 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

07.03.2025

Ajay Goswami

Whether speaking/reasoned

Yes/No

Whether reportable

Yes/No