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

CRM-M-63122-2024 (O&M)

Date of Decision: 07.01.2025

SURESH KUMAR

...Petitioner

V/S

STATE OF HARYANA

...Respondent

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Mr. Sahil Choudhary, Advocate for
Mr. Sandeep Saini, Advocate for the petitioner.

Ms. Geeta Sharma, DAG Haryana.

HARPREET SINGH BRAR J. (Oral)

1. This is the first petition filed under Section 483 of Bhartiya Nagrik Suraksha Sanhita, 2023 seeking grant of regular bail to the petitioner in case bearing FIR No. 555 dated 02.10.2023 registered under Sections 120-B, 420, 467, 468, 471 and 406 of Indian Penal Code at Police Station Ambala City Haryana.

2. In brief, relevant facts of the prosecution case are that complainant Gurpal Singh had made a complaint to the police alleging therein that accused Asha Makkar, Suresh Kumar(petitioner herein) and Vijay Kumar in connivance with each other had cheated the complainant for Rs.3 lacs by inducing him to arrange a government job for his son Sandeep Singh. For this purpose, they had also forged an appointment letter. On the basis of aforesaid allegations, FIR(supra) was registered.

3. Learned counsel for the petitioner *inter alia* contends that petitioner has been falsely implicated in the present case and there was a

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monetary dispute between the petitioner and the complainant, which has been resolved and a compromise has been effected between the petitioner and the complainant and petitioner has already paid a sum of Rs. 1,00,000/- to the complainant and the mutual agreement between the petitioner and the complainant is available on record as Annexure P-2. He further submits that similarly situated co-accused namely Asha Makkar has already been granted the concession of regular bail by learned Additional Sessions Judge, Ambala vide order dated 12.12.2024. Learned counsel for the petitioner has produced the copy of the aforesaid order granting regular bail to the co-accused by learned Additional Sessions Judge, Ambala. Investigation of the case is complete.

4. Per contra, learned State counsel filed the custody certificate, which is taken on record and opposes the prayer made by learned counsel for the petitioner on the ground that petitioner is a habitual offender and he is involved in two more cases under the provisions of Indian Penal Code. However, she could not controvert the fact that identically placed co-accused Asha Makkar has been enlarged on regular bail by learned Additional Sessions Judge, Ambala.

5. Having heard the learned counsel for the parties and after perusing the custody certificate, it transpires that petitioner is behind the bars since 13.09.2024 i.e. for a period of 03 months and 24 days and out of total 11 prosecution witnesses, none has been examined. Culpability, if any, would be determined at the time of the trial.

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."

6. In view of the above, the present petition is allowed and the petitioner-Suresh Kumar 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

07.01.2025
Ajay Goswami

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