





**CRM-M-33409-2025**

**-2-**

amount of Rs.19,98,450/- from the account of the wife of the complainant and thus, the instant case.

Learned counsel for the petitioner *inter alia* contends that the petitioner has been falsely implicated in the present case. The petitioner is not named in the FIR and there is no direct evidence to connect the petitioner with the alleged offence except a disclosure statement made by co-accused, namely, Vikas Kumar. The false implication of the petitioner is clearly discernible from the fact that the entire family members including ladies, have been implicated in the FIR (*supra*). The complicity of the bank officials is duly established as they have deposited the amount of around Rs.19 lakh in the account of the complainant yet the Investigating Officer has made the brother of the petitioner a scapegoat and also involved other family members. The brother of the petitioner has suffered the trial, however, the petitioner was declared as proclaimed offender without following the drill of Section 82 Cr.P.C. Further, the petitioner has never been arrested nor any summon has been received by him for his appearance and now the petitioner has been arrested after a gap of 18 years. The case of the prosecution is based upon the documentary evidence and 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 complicity of the petitioner is duly established and Rs.2 lakh have been credited to the account of the petitioner and he remained absconded for 18 years, as such, he is not entitled to any relief. He further submits that the petitioner is involved in one more case registered under the provisions of IPC.



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."*

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.

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 26.02.2025. 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 20 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.

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



**CRM-M-33409-2025**

**-4-**

the trial, the petitioner-Amit Kumar Das, 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**

**21.07.2025**

*Neha*

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