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in the bank account of his known person, namely, Natha Ram (the petitioner herein). Rampal had given one cheque bearing No.104027 dated 21.04.2022 amounting to Rs.28,80,000/- drawn on OBC Bank, Gharaunda to the complainant and this amount was also got withdrawn by the accused. It is further alleged that the accused had taken away the entire amount of Rs.1,28,00,000/- from the complainant fraudulently and had promised to return the same upto 30.06.2022 and in order to satisfy the claim, the accused handed over a cheque No.000009 dated 28.12.2022 of HDFC Bank but the same was dishonoured on presentation before the bank and thereafter, the said cheque was again presented by the complainant in her bank for encashment and it was again dishonoured on 03.03.2023. Thereafter, the complainant came to know that the accused had been into criminal activities and the petitioner was also a member of his gang and thus, the FIR (*supra*) was registered.

Learned counsel for the petitioner *inter alia* contends that the petitioner has been falsely implicated in the present case. The dispute between the parties stems out of one agreement to sell dated 11.03.2022. However, the FIR (*supra*) was registered after a delay of more than two years on 13.05.2024 and the dispute between the parties is purely civil in nature. However, the main accused is one Rakesh, who has received the amount in question from the complainant and the only allegation against the petitioner is that Rs.40 lakh were deposited in the account of the petitioner. He further submits that the petitioner is a rustic villager and he cannot read and write and only can sign in Hindi. The main accused, Rakesh, has withdrawn the said amount of Rs.40 lakh from the account of the petitioner. The complainant has already instituted a complaint under Section 138 of the Negotiable Instruments Act against the



main accused, Rakesh and the petitioner is not involved in any other case. The investigation of the case is complete and offences are 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 the complicity of the petitioner is duly established and he is beneficiary of Rs.40 lakh deposited in his account. However, he could not controvert the fact that 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 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.”

Having heard learned counsel for the parties and after perusing the

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record of the case, it transpires that the petitioner is behind the bars since 02.02.2025. 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 23 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 the trial, the petitioner-Natha Ram, 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

14.05.2025*Neha*

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