

CRM-M-26764-2023 (O&M) 1

206 IN THE HIGH COURT OF PUNJAB AND HARYANA
CHANDIGARH

CRM-M-26764-2023 (O&M)

Date of Decision: 06.12.2023

PRINCE

...Petitioner

V/S

STATE OF PUNJAB

...Respondent

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Mr. Parunjeet Singh, Advocate
for the applicant/petitioners.

Mr. I.P.S. Sabharwal, DAG Punjab.

HARPREET SINGH BRAR J. (Oral)

CRM-43705-2023

This is an application under Section 482 of Cr.P.C. seeking amending the Head-note and Prayer clause of the main case i.e. CRM-M-26764-2023 by adding Section 34 of IPC.

For the reasons mentioned in the application, same is allowed and registry is directed to make the necessary corrections in the head-note and prayer clause of the main case i.e. CRM-M-26764-2023 by adding Section 34 of IPC.

CRM-M-26764-2023

1. This is the first petition under Section 439 of Cr.P.C. seeking grant of regular bail to the petitioner in the case bearing FIR No. 179 dated 12.09.2022 registered under Section 379-B(2) of Indian Penal Code (Section 411 of IPC added later on) at Police Station Sadar Ludhiana.

2. Present FIR was logged on the statement made by Manjinder Singh @ Mannu that on 11.09.2022 at about 11.00 PM he was going to

his house on his motor cycle. When he reached near BCS School, three

unknown persons came on motor cycle and hit him on his back, due to which he fell down. These assailants has snatched the mobile phone and Rs. 600/- from the possession of the petitioner.

3. Learned counsel for the petitioner inter alia contends that the petitioner is behind the bars since 12.09.2022. He is not named in the FIR and no specific attribution is made to the petitioner. Investigation of the case is complete and even the complainant-Manjinder Singh has already been examined by the trial Court and he has not supported the case set up by prosecution.

4. Per contra, learned State counsel opposes the prayer for grant of bail to the petitioner on the ground that he is involved in a heinous crime and the petitioner cannot be allowed the concession of regular bail on the ground that the complainant has turned hostile before the trial Court.

5. Having heard the learned counsel for the parties and after perusing the record, it transpires that the petitioner is behind the bars since 12.09.2022, the investigation of the case is complete and final report under Section 173 of Cr.P.C. has already been submitted, the conclusion of the trial will take long time. Culpability, if any, would be determined at the time of 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, petitioner Prince is ordered to released on regular bail subject to his furnishing requisite bail bonds/surety bonds to the satisfaction of the concerned trial Court/Chief Judicial Magistrate/Duty Magistrate.
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.
8. The petition is allowed.

(HARPREET SINGH BRAR)
JUDGE

06.12.2023
Ajay Goswami

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