

CRM-M-42347-2023

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211 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-42347-2023
Date of Decision: 08.12.2023

GOBIND

...PETITIONER

VERSUS

STATE OF PUNJAB

...RESPONDENT

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Mr. Sudesh Sahi, Advocate
for the petitioner.

Mr. Jashanpreet Singh, DAG, Punjab.

HARPREET SINGH BRAR J. (ORAL)

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), 411 of Indian Penal Code at Police Station Sadar, District Ludhiana.

2. Present FIR was lodged 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 BCM 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/- and fled away on their motorcycle splendor color black without number.

3. Learned counsel for the petitioner *inter alia* contends that the petitioner is not named in the FIR and no test identification parade is conducted by the Investigating Officer to establish the identity of the petitioner and he is behind the bar since 12.09.2022.

4. Per contra, learned State counsel opposes the prayer for grant of bail to the petitioner on the ground that specific role is attributed to him and he is alleged to have caused injury with 'Datar'.

5. Having heard the learned counsel for the parties and after perusing the record, it transpires that the petitioner is in custody since 12.09.2022, the investigation of the case is complete, even the complainant Manjinder Singh has been examined by the learned trial Court and he had not supported the case of the prosecution, 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. Similarly situated co-accused has been granted concession of regular bail on 06.12.2023 vide CRM-M-26764-2023, titled as Prince Vs. State of Punjab.

7. In view of the above, petitioner Gobind 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.

8. 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.
9. The petition is allowed.

08.12.2023
manoj

(HARPREET SINGH BRAR)
JUDGE

<i>Whether speaking/reasoned</i>	<i>Yes/No</i>
<i>Whether reportable</i>	<i>Yes/No</i>