

CRM-M-57660-2023
Date of decision: 21.11.2023

Sona Singh @ SoniPetitioner

Versus

State of Punjab ...Respondent

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Mr. Kuldeep Singh, Advocate
for the petitioner.

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

HARPREET SINGH BRAR, J. (ORAL)

The present petition has been filed under Section 439 Cr.P.C. seeking regular bail in a case bearing FIR No.138 dated 06.08.2023 under Section 379-B of IPC (Sections 341/395/148/149 of IPC added later on) registered at Police Station City Jalalabad, District Fazilka.

Brief facts of the case are that on 03.08.2023 at about 10:15 P.M. when the complainant was travelling on his motorcycle in the area of GT road, Jalalabad, a little ahead of FCI go-downs, he had been intercepted by some unidentified persons riding on two motorcycles armed with sharp edged weapons who snatched two mobile phones i.e. Oppo F-5 and Vivo V20, Rs.8300/- cash, driving license, three debit cards, three credit cards, one silver coin, PAN card, Aadhar card, RC of motorcycle bearing No. PB05-AL-8351 and other important documents from the complainant. During investigation, the complainant suffered supplementary statement as reflected in DDR No.52 dated 07.08.2023 by naming the present applicant/petitioner as one of the snatchers.

Learned counsel for the petitioner *inter alia* contends that there is delay of three days in lodging the FIR. The petitioner is not named in the FIR but his name has been given in the supplementary statement by the complainant. Even in the supplementary statement, no specific role has been attributed to the petitioner. The version given in the FIR and the supplementary statement, do not indicate the active participation of the petitioner. He further submits that the petitioner is not involved in any other case.

Per contra, the learned State counsel opposes the grant of regular bail to the petitioner on the ground of heinousness of the crime. He further submits that the complainant is also yet to be examined and there is every likelihood that if the petitioner is released on bail, he might influence the witnesses.

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 demo

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cracy, 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 perusing the records of the case, it transpires that the petitioner is behind the bars for more than 03 months. Investigation is complete. The final report under Section 173 Cr.P.C. was presented before the concerned Court on 05.10.2023. There are 12 prosecution witnesses and as such, the trial of the case would take long time to conclude.

Keeping in view the period of incarceration and since the challan has already been presented against the petitioner and the likelihood of trial being prolonged, the present petition is allowed. Culpability, if any, would be determined at the time of trial. No useful purpose shall be served by further detention of the accused/petitioner. Thus, without commenting upon the merits of the case lest it may prejudice the outcome of the trial, the petitioner-Sona Singh @ Soni 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

21.11.2023

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