

CRM-M-58929-2023
Date of decision: 28.11.2023

Gurlal Singh @ Billu BakraPetitioner

State of Punjab ...Respondent

Present: Mr. Charanpreet Singh, Advocate for
Mr. J.S. Thakur, Advocate
for the petitioner.

HARPREET SINGH BRAR, J. (ORAL)

Brief facts of the case are that on 10.05.2023 at about 09:15 P.M., the complainant was going to his poultry farm by Aactiva and on the way three persons came on motorcycle, out of which, one person gave kick blow to his Aactiva due to which, he fell on the side of the road. The complainant pulled his 30 bore pistol and when he was about to fire, one assailant gave *datar* blow on his hand due to which, pistol fell down. The another assailant gave *datar* blows on his left hand, left arm, face and back and thereafter, assailants took his pistol, Aactiva and ran away from the spot. In the diggy of the Aactiva, there was cash amount of Rs.1,50,000/-, cheques, ATM Card, documents etc. and thus, the

present FIR was got registered.

Learned counsel for the petitioner *inter alia* contends that the petitioner is not named in the FIR and he has no connection with the alleged incidence. The recovery of Aactiva and the pistol owned by the complainant has been planted upon the petitioner on account of having dispute with regard to the purchase of Aactiva which he has purchased from the neighbouring village. The petitioner is behind the bars since 25.05.2023 and is not involved in any other case. Identity of the petitioner has not been established as no test identification parade in terms of Section 54 (A) of Cr.P.C. has been conducted and there is no credible evidence available on record to indicate the complicity of the petitioner. The trial of the case is progressing at snail's pace and further incarceration of the petitioner is not justified.

Per contra, the learned State counsel opposes the grant of regular bail to the petitioner on the ground that the stolen articles i.e. the pistol and Aactiva owned by the complainant has been recovered in pursuance of the disclosure statement suffered by the petitioner and main accused is yet to be arrested. He further submits that as many as 11 injuries have been inflicted upon the complainant by the co-accused.

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 perusing the record of the case, it transpires that the petitioner is behind the bars since 25.05.2023. Investigation is complete. The final report under Section 173 Cr.P.C. was presented before the concerned Court on 25.08.2023 and out of 15 prosecution witnesses none has been examined so far. The charges are yet to be framed. The trial of the case would take long time to conclude.

Keeping in view the facts and circumstances of the case, the fact that the petitioner is not involved in any other case 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-Gurlal Singh @ Billu Bakra is ordered to be released on regular bail during trial

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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

28.11.2023
Neha

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