

**208 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

CRM-M-58950-2023
Date of decision: 29.11.2023

Vishal SharmaPetitioner

Versus

State of Punjab ...Respondent

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Mr. Sahil Nain, Advocate for
Mr. Sandeep Kumar, Advocate
for the petitioner.

Ms. Navreet Kaur Barnala, AAG, 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.65 dated 22.04.2023 under Section 379-B/34 of IPC (Section 411 of IPC added later on) registered at Police Station Division No.6, Ludhiana (Annexure P-1).

The present FIR was lodged on the statement of complainant-Krishan Kumar that on 18.04.2023, when the complainant was going to his home from Gill Chownk, Ludhiana on his motorcycle (Splendor) bearing registration No. BP-10-GZ-4128, at about 08:00 P.M., he reached at Bricks Chownk ATI college, Ludhiana, then two young boys came on motorcycle from behind and parked their motorcycle in front of the complainant and stopped him. The pillion rider immediately got off the motorcycle and took out sharp edged weapon and pushed him, resultantly, the complainant fell down on the ground. Both of them snatched his Redmi Note phone from his pocket and ran

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away on their motorcycle. Due to darkness, he could not read the number of the motorcycle and later on, he came to know the names of those boys are Vishal Sharma and Saurabh Sharma who were residents of near Bhamra Dharam Kanda, Kot Mangal, Ludhiana.

Learned counsel for the petitioner *inter alia* contends that the petitioner has been falsely implicated in the present case and the FIR was lodged after a delay of 04 days and petitioner was arrested on the basis of secret information in this case. The co-accused, namely, Saurabh Sharma, has already been granted regular bail by this Court vide order dated 07.11.2023 passed in CRM-M-47647-2023 titled as 'Saurabh Sharma Vs. State of Punjab' (Annexure P-2).

Per contra, the learned State counsel opposes the grant of regular bail to the petitioner on the ground that he is a hardcore criminal and involved in seven FIRs out of which one FIR is of the similar nature, as such, he does not deserve the concession of regular bail.

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 records of the case, it transpires that the petitioner is behind the bars since 18.04.2023. Investigation is complete. The final report under Section 173 Cr.P.C. was presented before the concerned Court on 20.06.2023 and trial of the case has not made much progress as none out of 10 prosecution witnesses have 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 in view the law laid down by the Hon’ble Supreme Court of India in ‘**Prabhakar Tewari Vs. State of U.P. and another**’ 2020 (1) R.C.R. (Criminal 831) and ‘**Maulana Mohd. Amir Rashadi Vs. State of U.P. and Another**’, 2012 (2) SCC 382, the involvement of the petitioner in other cases would not be a ground to refuse grant of concession of regular bail.

In view the above and especially, the fact that the similarly situated co-accused, namely, Saurabh Sharma, has been granted regular bail by this Court vide order dated 07.11.2023 passed in CRM-M-47647-2023 titled as ‘**Saurabh Sharma Vs. State of Punjab**’ (Annexure P-2), the present petition is

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allowed. Thus, without commenting upon the merits of the case lest it may prejudice the outcome of the trial, the petitioner-Vishal Sharma 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

29.11.2023
Neha

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