

CRM-M-59129-2023
Date of decision: 29.11.2023

Versus

State of Punjab ...Respondent

Present: Mr. K.S. Brar, 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.17 dated 23.04.2023 under Section 379-B of IPC registered at Police Station Sadar Rampura, District Bathinda (Annexure P-1).

The FIR was registered on the statement of Anirudh Partap Singh on the allegation that on 21.04.2023, when he came to his office at Malout Road Bathinda regarding some work of his company and after completion of work, at about 10:00 P.M., he went Barnala in his car and at about 11:00 – 11:15 P.M, he reached near village Gill Kalan/Dhani Bath within the area Bathinda-Barnala road, a silver colour car came from back side and stopped in front of the car of the complainant. The number plate of the said car was covered with soil. Four young men came out from the said car with their covered faces with *parna* who were armed with iron rods and came near the driver side of the car of

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complainant and dragged him. It is further alleged that they snatched a gold chain weighing about 1-1/2 *tollas* from the neck of complainant, gold ring weighing 06 grams and one young man has taken away laptop along with cheque books and pass books of ICICI Bank, Axis Bank and SBI Bank and his purse containing Rs.14,00/- and other necessary documents 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 it was lodged after the delay of two days. The test identification parade as provided under Section 54(A) of Cr.P.C. has not been conducted in the present case to fully establish that the petitioner has participated in the alleged incident. In fact, the petitioner is arrested in some other case and the present case foisted upon him after obtaining production warrants of the petitioner.

Per contra, the learned State counsel, on instructions from ASI Jaswinder Singh, opposes the grant of regular bail to the petitioner on the ground that the petitioner is a habitual offender and involved in many cases under the Excise Act and Indian Penal Code including an FIR No.132 dated 30.12.2017 under Sections 302/182/211/120-B/34 of IPC registered at Police Station Sadar Rampura, District Bathinda.

In rebuttal, learned counsel for the petitioner contends that the petitioner has been acquitted in FIR No.132 which was registered under Section 302 of IPC at Police Station Rampura District Bathinda, whereas, he has been discharged in FIR No.39 dated 20.06.2011 under Section 302 of IPC was lodged at Police Station Sadar Mansa and is in custody only in the present FIR.

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 03.04.2023. Investigation is complete. The final report under Section 173 Cr.P.C. was presented before the concerned Court on 08.09.2023. Trial of the case has not made much progress as none out of 12 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.

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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, the present petition is allowed. Thus, without commenting upon the merits of the case lest it may prejudice the outcome of the trial, the petitioner-Gurpreet Singh @ Billa 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