

CRM-M-61252-2023 (O&M) 1

216 IN THE HIGH COURT OF PUNJAB AND HARYANA
CHANDIGARH

CRM-M-61252-2023 (O&M)
Date of Decision: 11.12.2023

SHAMSHER SINGH @ SHERA

...Petitioner

V/S

STATE OF PUNJAB

...Respondent

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Mr. Ankit Bhardwaj, Advocate and
Mr. Balbir Singh Jaswal, Advocate
for the petitioner.

Mr. I.P.S. Sabharwal, 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. 146 dated 25.08.2023 registered under Sections 379-B, 341 and 511 of Indian Penal Code at Police Station Beas, District Amritsar Rural.

2. Present FIR was lodged on the statement of complainant-Sahib Singh on the allegations that on 24.08.2023, at about 05.30 PM, when he was going to Wadala Kalan on his motor cycle for some work, three youngsters on a motor cycle armed with *datar* came on a very high speed from the back side, stopped the complainant and tried to snatch the belongings of the complainant. When the complainant resisted, he was attacked and in order to save himself, the complainant stepped backwards, then the *datar* hit the seat of his Activa. The complainant raised alarm, which attracted many passer byes and the assailants fled away from the spot, leaving behind their motor cycle.

is a delay of 19 hours in the registration of the FIR. The petitioner is neither named in the FIR nor any specific role has been attributed to him. The provisions of Section 379-B of IPC cannot be invoked in the absence of any theft.

4. Learned State counsel opposes the prayer for grant of bail to the petitioner on the ground that he is involved in a heinous crime and the complainant is yet to be examined in the trial Court and in case the petitioner is granted regular bail, he may influence the witnesses. It is further contended that the petitioner is also involved in one more FIR.

5. Having heard the learned counsel for the parties and after perusing the record, it transpires that the petitioner is behind the bars since 30.09.2023. The investigation of the case is complete and the final report under Section 173 Cr.P.C. has already been presented by the Investigating Agency before the Court concerned on 21.10.2023. Trial of the case is likely to take long time to conclude.

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. In view of the above, petitioner-Shamsher Singh @ Shera 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.
7. 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.
8. The petition is allowed.

11.12.2023
Ajay Goswami

(HARPREET SINGH BRAR)
JUDGE

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