

**206 IN THE HIGH COURT OF PUNJAB AND HARYANA
CHANDIGARH****CRM-M-63821-2023 (O&M)****Date of Decision: 22.12.2023****VINAY AND ANOTHER****...Petitioners****V/S****STATE OF HARYANA****...Respondent****CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR**

Present: Mr. Zorawar Singh Chauhan, Advocate
for the petitioner.

Mr. Vikas Bhardwaj, AAG Haryana.

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. 367 dated 12.11.2023 registered under Sections 379-A, 511 and 34 of Indian Penal Code and Section 28 of Arms Act at Police Station Dharuhera, District Rewari Haryana.

2. The present FIR was lodged on the complaint made by Deepak Singh on the allegations that on 11.11.2023 at about 08:40 PM, he was present at Wine Shop and their Scorpio had come for collecting cash. Meanwhile, two boys tried to snatch cash from his hand. He made noise. His companions Lalit and other staff members came out and with their help, boys were apprehended who disclosed their names as Vinay and Shyam. Search of Shyam led to recovery of country made pistols and Vinay had one country made pistol and three live cartridges. Both had come on Pulsar motorcycle.

3. Learned counsel for the petitioner *inter alia* contends that the petitioners are real brothers and have been falsely implicated in the

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present Case. In fact, a minor altercation took place between the petitioners and the complainant, which has been given the colour of attempt of snatching the cash from the complainant. In fact no snatching had taken place. The petitioners are having clean antecedents and they are not involved in any other case prior to registration of the FIR(supra).

4. Per contra, learned State counsel opposes the prayer for grant of regular bail to the petitioner on the ground of seriousness and gravity of the offence as the petitioners have attempted to commit snatching, which is punishable under Section 379-A of Indian Penal Code.

5. Having heard learned counsel for the parties and perusing the records of the case, it transpires that the Investigating Agency has concluded the investigation and final report under Section 173 Cr.P.C. has been presented before the concerned Court on 21.12.2023 and trial of the case is yet to commence. Culpability, if any, would be determined at the time of trial.

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. Keeping in view the facts and circumstances of the present case and the fact that petitioners are not involved in any other case, the present petition is allowed and the petitioners-Vinay and Shyam are ordered to released on regular bail subject to their 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.

22.12.2023
Ajay Goswami

(HARPREET SINGH BRAR)
JUDGE

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