

207 IN THE HIGH COURT OF PUNJAB AND HARYANA
CHANDIGARH

CRM-M-64021-2023 (O&M)

Date of Decision: 22.12.2023

HARPAL SINGH @ BHALLA @ KALA

...Petitioner

V/S

STATE OF PUNJAB

...Respondent

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Mr. Akun Sheemar, Advocate and
Mr. Yajur Sharma, Advocate
for the petitioner.

Mr. Madhur Sharma, AAG 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. 68 dated 15.08.2023 registered under Sections 341, 379-B and 411 read with Section 34 of Indian Penal Code at Police Station Ghanie Ke Banger, District Batala, Punjab.

2. The present FIR was lodged on the complaint made by Balwinder Singh on the allegations that on 15.08.2023 he had gone from his village to Nanak Chack for paying obeisance on his scooter and when he was returning back at about 3:00 PM, one motorcycle came from front side which was driven by Harpal Singh @ Bhalla son of Pappu and the pillion rider namely Harpal Singh @ Bhalla son of Sukhdev Singh (present petitioner) who waylaid him and stopped his motorcycle. Both of them took out their *datars* and pointed those *datars* on his neck and snatched his purse from his pocket and

one mobile phone alongwith Rs. 450,- as well.

3. Learned counsel for the petitioner *inter alia* contends that the alleged snatching of the mobile phone has been committed by the co-accused. The allegation against the petitioner is that he was sitting as a pillion rider and the motorcycle was driven by the co-accused. The petitioner is not involved in any other case and having clean antecedents.

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 offences and that the petitioner has been duly named in the FIR. As such his identity is duly established.

5. Having heard learned counsel for the parties and perusing the records of the case, it transpires that the petitioner is behind the bars since 17.08.2023. Investigating Agency has concluded the investigation and final report under Section 173 Cr.P.C. has been presented before the concerned Court on 05.11.2023. Trial of the case has not made much progress as out of 9 witnesses cited by the prosecution, none has been examined so far. So further incarceration of the petitioner without there being the prospect of the conclusion of the trial in the near future, would be violative of Article 21 of the Constitution of India. 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. In view of the above, the present petition is allowed and petitioner- Harpal Singh @ Bhalla @ Kala 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.

(HARPREET SINGH BRAR)
JUDGE

22.12.2023
Ajay Goswami

Whether speaking/reasoned
Whether reportable

Yes/No
Yes/No