

to know that the person armed with Kirch was Sandeep Singh @ Tari, armed with Kirpan was Hardev Singh and armed with iron rod was Baljit Singh. On the basis of this statement, FIR was registered for offences u/s 392 and 34 IPC.

3. Learned counsel for the petitioner *inter alia* contends that the petitioner is not named in the FIR and there is no allegation with regard to the snatching against the petitioner. The petitioner has been involved in the present case only on the basis of recovery of stolen phone of the complainant from his possession. As such, offence under Section 411 of Indian Penal Code was added. The petitioner is not involved in any other case and he has been falsely implicated in the present case.

4. Per contra, the learned State counsel, on instructions from ASI Daler Singh, opposes the prayer of grant of regular bail to the petitioner on the ground that I-phone held by the complainant was recovered from his conscious possession and role of the petitioner in the alleged crime has been duly established.

5. 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. Having heard the learned counsel for the parties and after perusing the record of the case, it transpires that the investigating agency has already concluded the investigation and submitted the final report under Section 173 Cr.P.C. on 04.12.2023 and the trial of the case is likely to take long time as none, out of 14 witnesses cited by the prosecution, has been examined so far. The petitioner is behind the bars since 03.10.2023. Culpability, if any, would be determined at the time of the trial. No useful purpose would be served by further detention of the accused-petitioner. Keeping the petitioner in further detention, without the prospect of the trial being concluded in the near future, would be violative of his rights under Article 21 of the Constitution of India.

7. Keeping in view the facts and circumstances of the case, the present petition is allowed without commenting upon the merits of the case lest it may prejudice the outcome of the trial and the petitioner-Jaggiwan Singh @ Jagjeevan Singh @ Kali 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.

8. Learned counsel for the petitioner further submits that in the FIR as well as in the impugned order dated 29.11.2023, passed by learned Additional Sessions Judge, Mansa, vide which, regular bail of the petitioner was dismissed, the offence under Section 201 of Indian Penal Code has not been mentioned in the head note, however, in para No.3 of the impugned order, the offence under Section 201 IPC has been mentioned.

9. Learned State counsel on instructions from ASI Daler Singh submits that Section 201 of IPC has also been added in the final report under Section 173 Cr.P.C.

10. As such, learned counsel for the petitioner submits that the aforesaid omission had occurred due to inadvertence and without the

knowledge of the learned counsel for the petitioner and requested this Court to add Section 201 of Indian Penal Code in the present petition.

11. Keeping in view the facts and circumstances of the case, Section 201 of Indian Penal Code be added in FIR No. 165 dated 05.10.2023 in this order and the Registry is directed to include Section 201 of IPC in the head note as well as in the prayer clause of this petition.

12. 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.

January 11, 2024
manisha

(HARPREET SINGH BRAR)
JUDGE

(i)	Whether speaking/reasoned	Yes/No
(ii)	Whether reportable	Yes/No