

hitting his left cheek, whereupon, he fell down from his motorcycle. Then Baljinder Singh (petitioner herein) gave *kapa* blow and when he raised his right hand to save from the *kapa* blow, it struck his right little finger. Sukhwinder Singh caught hold him from his uniform, due to which, shoulder and buttons of uniform were broken. After causing him injuries, accused snatched his mobile phone having SIM No.8054500428 and 9877577751 along with his belt. Thereafter, assailants ran away from spot. Meanwhile, Vijay Kumar came at the spot and took him to his house. On the next morning of 10.09.2023, he got himself admitted in Civil Hospital, Fazilka and thus, the present FIR got registered.

3. Learned counsel for the petitioner *inter alia* contends that similarly situated three accused have been granted the concession of regular bail by this Court vide order dated 24.01.2024 passed in CRM-M No.60850 of 2023. The FIR (supra) has been lodged after a delay of one day and in fact, the minor scuffle had taken place between the petitioner, co-accused and the complainant. The complainant being a police official has aggravated the case by making a case of snatching of mobile phone. The petitioner is in custody since 10.09.2023 and the investigating agency has submitted final report under Section 173 Cr.P.C. on 04.11.2023.

4. Per contra, the learned State counsel has filed the status report as well as custody certificate which are taken on record and opposes the grant of regular bail to the petitioner on the grounds that the petitioner along with co-accused have caused five injuries on the complainant and have also snatched his mobile phone which was recovered from Sukhwinder Singh.

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 learned counsel for the parties and after perusing the record of the case, it transpires that similarly situated co-accused were granted regular bail by this Court and the petitioner is behind the bars since 10.09.2023. Investigation is complete. The final report under Section 173 Cr.P.C. was presented before the concerned Court on 04.11.2023. There are 15 prosecution witnesses and trial of the case has not made much progress 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. 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. In view of 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, namely, Baljinder Singh *alias* Babbu 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. 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.

February 08, 2024
manisha

(HARPREET SINGH BRAR)
JUDGE

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