

CRM-M-7988-2024
Date of decision: 21.02.2024

....Petitioner

...Respondent

Ms. Geeta Sharma, DAG, Haryana.

Present FIR was lodged on the allegations that on 23.02.2023 at around 7.00 PM in the evening, when the complainant entered his house, he found two young boys wearing helmets and one of them had pointed pistol on his wife-Richa's head and the other boy was stealing the jewellery from the cupboard of the bedroom and he had put the gold articles in a cloth. When the complainant tried to catch them and raise alarm, a scuffle took place between the complainant and the assailants and during the said scuffle, helmet came off from the head of one boy, whom the complainant recognized as Ravinder Kumar @ Vishu, who had earlier worked as a driver with the complainant.

The co-accused is alleged to have attacked the complainant with the

intention to kill him with a knife, which he was holding in his hand and the complainant suffered several injuries on his body. Thereafter, both the assailants fled away from the spot.

Learned counsel for the petitioner *inter alia* contends that the similarly situated co-accused, namely, Ravinder Kumar @ Vishu has been granted the concession of regular bail by this Court vide order dated 14.02.2024 passed in CRM-M-6913-2024 titled as 'Ravinder Kumar @ Vishu Vs. State of Haryana.' He further submits that offence under Section 307 of IPC has been invoked just to aggravate the offence and the nature and extent of injuries clearly indicates that no offence under Section 307 of IPC is made out and there is no medical opinion with regard to any of the injury being dangerous to life to make out a case under Section 307 of IPC against the petitioner. Petitioner is behind the bars since 24.02.2023 and trial of the case has not made much progress.

Per contra, learned State counsel opposes the prayer for grant of regular bail to the petitioner on the ground that petitioner has been duly named in the FIR and he was recognized by the complainant and he was apprehended on the same day, when he along with co-accused were trying to flee away from the spot and gold ornaments were also recovered from his possession. She further submits that the petitioner is involved in one more case under Section 138 of the Negotiable Instruments Act.

Having heard the learned counsel for the parties and after perusing the record of the case, it transpires that petitioner is behind the bars since 24.02.2023 and similarly situated co-accused, namely, Ravinder Kumar @ Vishu has been granted the concession of regular bail by this Court vide order

dated 14.02.2024 passed in CRM-M-6913-2024 titled as 'Ravinder Kumar @ Vishu Vs. State of Haryana.' Trial of the case is progressing at snail's pace as only 01 out of 22 prosecution witnesses, has been examined 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.

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."

In view of the above, the present petition is allowed and the

petitioner-Vishal Kaushik @ Vishu 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.

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

21.02.2024
Neha

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