

CRM-M-9212-2024

**214 IN THE HIGH COURT OF PUNJAB AND HARYANA  
CHANDIGARH**

CRM-M-9212-2024 (O&amp;M)

Date of Decision: 26.02.2024

**AKASHDEEP SINGH****...Petitioner****V/S****STATE OF PUNJAB****...Respondent****CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR**

Present: Mr. Ankit Bhardwaj, Advocate for  
Mr. B.S. Jaswal, Advocate for the petitioner.

Mr. Sandeep Kumar, DAG Punjab.

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**HARPREET SINGH BRAR J. (Oral)**

1. This is the first petition filed under Section 439 of Cr.P.C. seeking grant of regular bail to the petitioner in the case bearing FIR No. 87 dated 08.11.2023 registered under Section 379-B of Indian Penal Code (Sections 409 and 34 of IPC added later on) at Police Station Tarsikka, District Amritsar.

2. The present FIR was lodged on the allegations that on 01.05.2023 Manager Harwinder Singh and Salesman of the complainant namely Tejpal Singh were going to deposit the cash amounting to Rs. 6,78,000/- in the Punjab National Bank, Tangra. At about 2.45 PM, when they reached near diversion of Tangra road, two unidentified persons, with muffled faces, came on a Splendor Motorcycle and snatched the bag of the complainant from the Manager Harwinder Singh and fled away towards Jandiala. On 09.11.2023, the complainant got recorded his supplementary statement that his Manager Harwinder Singh is involved in the said snatching. In fact, an amount of Rs. 1,55,000/- was snatched instead of Rs. 6,78,000/- and the remaining amount was embezzled by the Manager Harwinder Singh and

after the arrest of Harwinder Singh, he suffered a disclosure statement that out of the snatched amount, Rs. 1,55,00/-, Rs. 55,000/- came to the share of the Akashdeep Singh (petitioner herein).

3. Learned counsel for the petitioner *inter alia* contends that the petitioner is not named in the FIR and he has involved in the FIR(supra) on the basis of disclosure statement of co-accused Harwinder Singh, while in police custody, which has no evidentiary value in the eyes of law. Petitioner is behind the bars since 09.11.2023 and the investigation of the case has already been completed.

4. Per contra, learned State counsel opposes the grant of regular bail to the petitioner on the ground that the part of the stolen money was recovered from the possession of the petitioner. However, he could not controvert the fact that petitioner is not involved in any other case.

5. Having heard learned counsel for the parties and after perusing the record of the case, it transpires that petitioner is behind the bars since 09.11.2023. Investigating Agency has completed the investigation and submitted the final report under Section 173 of Cr.P.C. before the concerned Court. Out of 11 prosecution witnesses, 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 the 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 the petitioner- Akashdeep Singh 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.
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.

26.02.2024  
Ajay Goswami

(HARPREET SINGH BRAR)  
JUDGE

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|---------------------------|--------|
| Whether speaking/reasoned | Yes/No |
| Whether reportable        | Yes/No |