

CRM-M-10469-2024

213 IN THE HIGH COURT OF PUNJAB AND HARYANA
CHANDIGARH

CRM-M-10469-2024 (O&M)

Date of Decision: 04.03.2024

BALWINDER SINGH @ LADI @ JATINDER SINGH

...Petitioner

V/S

STATE OF PUNJAB

...Respondent

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Mr. Kuldip Singh, Advocate
for the petitioner.

Mr. Sandeep Kumar, DAG Punjab.

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. 138 dated 06.08.2023 registered under Sections 379-B of Indian Penal Code (Sections 341/395/148/149 of IPC added later on) at Police Station City Jalalabad, District Fazilka.

2. Brief facts of the case are that on 03.08.2023 at about 10:15 P.M. when the complainant was travelling on his motorcycle in the area of GT road, Jalalabad, a little ahead of FCI go-downs, he had been intercepted by some unidentified persons riding on two motorcycles armed with sharp edged weapons who snatched two mobile phones i.e. Oppo F-5 and Vivo V20, Rs.8300/- cash, driving license, three debit cards, three credit cards, one silver coin, PAN card, Aadhar card, RC of motorcycle bearing No. PB05-AL-8351 and other important documents from the complainant. During investigation, the complainant suffered supplementary statement as reflected in DDR No.52 dated 07.08.2023 by naming the present applicant/petitioner as one of the snatchers.

3. Learned counsel for the petitioner *inter alia* contends that there is

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delay of three days in lodging the FIR. The petitioner is not named in the FIR but his name has been given in the supplementary statement by the complainant. Even in the supplementary statement, no specific role has been attributed to the petitioner. The version given in the FIR and the supplementary statement, do not indicate the active participation of the petitioner. He further submits that the petitioner is not involved in any other case and similarly situated co-accused Sona Singh @ Soni has been granted the concession of regular bail by this Court vide order dated 21.11.2023 passed in CRM-M-57660-2023.

4. Per contra, the learned State counsel opposes the grant of regular bail to the petitioner on the ground of heinousness of the crime. He further submits that the complainant is also yet to be examined and there is every likelihood that if the petitioner is released on bail, he might influence the witnesses.

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 demo cracy, there can never be an impression that it is a police State as both are conceptually opposite to each other.”

5. Having heard learned counsel for the parties and perusing the custody certificate, it transpires that the petitioner is behind the bars for more than 04 months. Investigation is complete. The final report under Section 173 Cr.P.C. was presented before the concerned Court on 05.10.2023. There are 12 prosecution witnesses and as such, the trial of the case would take long time to conclude.
6. Keeping in view the period of incarceration and since the challan has already been presented against the petitioner and the likelihood of trial being prolonged, the present petition is allowed. Culpability, if any, would be determined at the time of trial. No useful purpose shall be served by further detention of the accused/petitioner. Thus, without commenting upon the merits of the case lest it may prejudice the outcome of the trial, the petitioner-Balwinder Singh @ Laddi @ Jatinder 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.

04.03.2024
Ajay Goswami

(HARPREET SINGH BRAR)
JUDGE

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