

CRM-M-11459-2024
Date of decision: 11.03.2024

...PETITIONER

V/S

...RESPONDENT

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Mr. Vishal Thakur, Advocate for
Mr. Raghav Soni, Advocate
for the petitioner.

Mr. Sandeep Kumar, DAG, Punjab.

HARPREET SINGH BRAR J. (ORAL)

This petition has been filed under Section 439 of the Code of Criminal Procedure for grant of regular bail to the petitioner in case bearing FIR No. 0231 dated 30.10.2023 (Annexure P-1) registered under Sections 379-B and 34 of IPC, 1860 at Police Station Chheharta, District Amritsar.

2. The present case was registered on the statement of complainant Ronak Bhargav that on 29.10.2023 he was going on his Aactiva Scooter from his house towards Chheharta. When he reached near Petrol pump, then three persons came on motorcycle No.PB-46-J-1505 and signalled him to stop and then they snatched Rs. 1000/- and mobile charger from him. On the basis of statement of complainant present case was registered three persons.

3. Learned counsel for the petitioner *inter alia* contends that similarly situated co-accused namely Navjot Singh was granted the concession of regular bail by this Court on 01.02.2024 passed in case bearing CRM-M No.4409 of 2024 (Annexure P-2). It is further contended that the perusal of the

FIR does not indicate the time of the incident. He has been nominated as accused on the basis of disclosure statement made by co-accused Abhi, while being in police custody, which is hit by the provisions of Section 27 of the Evidence Act and the recovery of Rs.1,000/- has been made from co-accused.

4. Per contra, learned State counsel opposes the prayer of grant of regular bail to the petitioner on the ground that there is sufficient material available on record to indicate the complicity of the petitioner in the alleged occurrence.

5. Having heard the learned counsel for the parties and after perusing the record of the case, it transpires that the petitioner is behind the bars since 30.10.2023. The Investigating Agency has completed the investigation and submitted the final report under Section 173 of Cr.P.C. on 10.01.2024. Culpability, if any, would be determined at the time of the trial. Trial of the case is likely to take long time to conclude as none out of 15 prosecution witnesses, 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.

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. Thus, without commenting upon the merits of the case lest it may prejudice the outcome of the trial, the present petition is allowed and the petitioner- Robin 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.

March 11, 2024
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(HARPREET SINGH BRAR)
JUDGE

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