

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

Crl. Misc. No. M-12172 of 2024
Date of Decision: March 13, 2024

Jashanpreet Singh
.....Petitioner
versus

State of Punjab
.....Respondent

CORAM: HON'BLE MR.JUSTICE HARPREET SINGH BRAR

Present:- Mr. Kushagra Mahajan, 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. 278 dated 21.10.2023 registered under Section 379-B(2) IPC at Police Station Jandiala, District Amritsar.
2. As per the case of the prosecution, the present FIR was registered against the petitioner on the allegations that on 21.10.2023, complainant-Pardeep Kumar alongwith his brother Deepu and cousin Gopal Kumar were going towards their house and at about 8.00 p.m. when they reached at the turn of village Dheerekot, three young boys with muffled faces having datar with them came from behind on a motorcycle. At datar point, the said persons asked the complainant and his companions to hand over whatever they were having with them and one of aforesaid persons tried to snatch the mobile phone which the complainant was having in his hands. The complainant and his companions raised raula upon which many other persons also gathered at the spot and they

apprehended one person at the spot while the other two succeeded to escape on their motorcycle. The apprehended person was accused Jashanpreet Singh.

3. Learned counsel for the petitioner *inter alia* contends that the case set up by the prosecution is false. The petitioner as well complainant are resident of the same village and are known to each other. The altercation took place between them and the offence under Section 379-B IPC is only added to aggravate the offence. The petitioner is not involved in any other case and he behind the bars since 21.10.2023.

4. Per contra, learned State counsel opposes the grant of regular bail to the petitioner on the ground that he has been specifically named in the FIR and he was arrested at the spot as such he is not entitled to grant of regular bail.

5. Having heard learned counsel for the parties and after perusing the record of the case, it transpires that the petitioner is behind the bars since 21.10.2023. The investigating agency has concluded the investigation and filed the final report under Section 173 Cr.P.C. on 19.01.2024. The trial of the case has not made much progress till date as none out of total of 10 PWs cited by the prosecution 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 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 petitioner-Jashanpreet Singh is ordered to be released on regular bail subject to his furnishing requisite bail bonds/surety bonds to the satisfaction of the concerned trial Court/Chief Judicial Magistrate/Duty Magistrate.

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.

(HARPREET SINGH BRAR)
JUDGE

March 13, 2024

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Whether speaking/reasoned : Yes/No

Whether Reportable : Yes/No