

CRM-M-12807-2024
Date of decision: 18.03.2024

Versus

State of Punjab ...Respondent

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Mr. Sandeep Kumar, DAG, Punjab.

HARPREET SINGH BRAR, J. (ORAL)

The present FIR was registered on the complaint of Deputy Regional Manager (Vigilance) Gloves, Warehouse and Trading Private Limited, Mohali, on the allegations that Manager of the Godown situated at Village Bamma, called him and informed that on 13.06.2023 at about 01:00 A.M. in the night, the security guards deployed at the night duty were threatened by about 20-22 unidentified persons and after snatching their weapons, they were detained in one room. It is further alleged that those unidentified persons have broken the locks of the Godown and entered the premises. Thereafter, they loaded 500 gunny bags of wheat each weighing 50 kg and while going, they

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have damaged the CCTV cameras installed therein and also took the DVR. The total value of the wheat which was stolen is about Rs.9 lakhs and thus, the FIR (*supra*) was registered.

Learned counsel for the petitioner submits that the petitioner is not named in the FIR rather the entire case against the petitioner is based upon the confession of the petitioner recorded during custody in another FIR and there is no other material available on record to prove the complicity of the petitioner in the alleged offence. He further submits that nothing has been recovered from the possession of the petitioner and he is in custody since 24.07.2023.

Per contra, the learned State counsel opposes the grant of regular bail to the petitioner on the ground that the petitioner is a habitual offender and is involved in two more cases and thus, does not entitle to the relief of regular bail.

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,

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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.”

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 24.07.2023. Investigation is complete. The final report under Section 173 Cr.P.C. was presented before the concerned Court and trial of the case has not made much progress as out of 13 prosecution witnesses none 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.

Keeping in view the law laid down by the Hon'ble Supreme Court of India in '**Prabhakar Tewari Vs. State of U.P. and another**' 2020 (1) R.C.R. (Criminal 831) and '**Maulana Mohd. Amir Rashadi Vs. State of U.P. and Another**', 2012 (2) SCC 382, the involvement of the petitioner in other cases would not be a ground to refuse grant of concession of regular bail.

In view the above, the present petition is allowed. Thus, without commenting upon the merits of the case lest it may prejudice the outcome of the trial, the petitioner-Jodhvir Singh @ Jodha 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.

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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

18.03.2024
Neha

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