

209 IN THE HIGH COURT OF PUNJAB AND HARYANA
 CHANDIGARH

CRM-M-40507-2023 (O&M)
Date of Decision: 30.01.2024

NARENDER @ NINDE BHADANA

...Petitioner

V/S

STATE OF HARYANA

...Respondent

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Mr. Sandeep Kumar Rana, Advocate
 for the petitioner.

Ms. Geeta Sharma, DAG Haryana.

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. 344 dated 08.05.2023 registered under Sections 379, 411, 413, 420 and 120-B of Indian Penal Code at Police Station Surajkund, District Faridabad.

2. Present FIR was lodged on the basis of a secret information on the allegations that the petitioner has bought two stolen HYWA vehicles and has dismantled those vehicles in his godown in village Anangpur. One vehicle is lying parked near the godown of the petitioner, in which dismantled parts of the HYWA vehicle was loaded. In case, a raid is conducted, the petitioner can be apprehended. On this information, the police party reached at the spot and the persons who were loading dismantled parts in the vehicle, fled away from the spot. Police party recovered two HYWA cabins and other parts of the stolen vehicles. From the number plates of these two vehicles, it was found

that the parts belongs to the stolen vehicles. The cutting instruments i.e. gas cylinders etc. were taken into possession.

3. Learned counsel for the petitioner *inter alia* contends that the petitioner has no connection with the alleged incident and at the most he can be held liable for the offence under Section 411 of Indian Penal Code, as the stolen parts of the vehicle were lying in the godown owned by the petitioner and in fact it was the co-accused Abid, who was arrested on 13.05.2023, has taken the godown of the petitioner, on rent at a monthly rent of Rs. 30,000/-. The copy of the Rent Agreement dated 26.04.2023 is available on record as Annexure P-2. The investigation of the case has been completed and final report under Section 173 of Cr.P.C. has been submitted in the trial Court.

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. Learned State counsel further contends that petitioner is a habitual offender and involved in three more cases.

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 13.05.2023. The Investigating Agency has completed the investigation and submitted the final report under Section 173 of Cr.P.C. on 10.07.2023. 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 18 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. In view of the ratio of law laid down by Hon'ble Supreme Court in **Prabhakar Tiwari Vs. State of UP and Anr.** 2020(1) RCR (Criminal) 831 and **Maulana Mohd. Amir Rashadi Vs. State of U.P. and Others** 2012(2) SCC 382, the involvement of accused in other criminal cases cannot be the sole ground to deny him the concession of bail.

7. Thus, without commenting upon the merits of the case lest it may prejudice the outcome of the trial, the petitioner- Narender @ Ninde Bhadana 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.

8. 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.

30.01.2024
Ajay Goswami

(HARPREET SINGH BRAR)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes/No
Yes/No