

CRM-M-48262-2023
Date of decision: 20.02.2024

...Petitioner

State of Punjab

...Respondent

Present: Mr. Rishab Goyal, Advocate for
Mr. Angel Walia, Advocate
for the petitioner.

Mr. Sandeep Kumar, DAG, Punjab.

The present petition has been filed under Section 439 Cr.P.C seeking regular bail in case bearing FIR No.19 dated 19.02.2021 under Section 379-B of IPC (Section 411 of IPC added later on) registered at Police Station Verka, District Amritsar, Punjab (Annexure P-1).

The present FIR was registered on the allegations that on 19.02.2021, the complainant was going along with his son to the shop of her tailor and about 05:00 P.M. when they reached near Verka flyover, the petitioner has snatched her mobile phone and ran away from the spot.

Learned counsel for the petitioner *inter alia* submits that the petitioner is behind the bars since 28.02.2021. The final report under Section 173 Cr.P.C. was presented and charges have already been framed on 17.12.2021 and the trial has not been concluded till date even after passing of almost 03 years. He further submits that the bare perusal of the FIR clearly indicates that the present case falls under Section 379-A of IPC and the FIR (*supra*) was registered under Section 379-B of IPC without any basis and it is admittedly a

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case of no injury.

Per contra, the learned State counsel opposes the grant of regular bail to the petitioner on the ground that the identity of the petitioner was duly established and he has been convicted in 02 more cases of similar nature.

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.”

Having heard learned counsel for the parties and after perusing the record of the case, it transpires that the petitioner is behind the bars for the last more than 03 years. Investigation is complete. The final report under Section 173 Cr.P.C. was presented before the concerned Court. Charges were framed on 17.12.2021 and trial of the case has not made much progress as only 04

prosecution witnesses have 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-Vijay @ Vijay Singh is ordered to be released on regular bail during trial on his furnishing bail bonds/surety bonds to the satisfaction of Il-laqa Magistrate/Trial Court.

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

20.02.2024
Neha

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