

214 IN THE HIGH COURT OF PUNJAB AND HARYANA
CHANDIGARH

CRM-M-57983-2023 (O&M)

Date of Decision: 13.02.2024

SONU SINGH @ SONA

...Petitioner

V/S

STATE OF PUNJAB

...Respondent

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Mr. B.S. Bhalla, Advocate for the petitioner.

Mr. Madhur Sharma, DAG Punjab and
Mr. Rishabh Singla, AAG 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. 183 dated 06.09.2023 registered under Sections 307, 379-B, 341, 332, 353, 186, 427, 506, 148 and 149 of Indian Penal Code at Police Station Ajnala District Amritsar.

2. Present FIR was lodged on the statement of Jagatpreet Singh JE-cum-Mining Inspector on the allegations that he received information that Jagga Singh and Ninder Singh are doing illegal mining in their fields and they intend to sell the sand extracted from their fields, during the night. After receiving this information, the complainant along with other officials reached at the spot, who found that illegal mining was being done by the accused. When the complainant along with his colleagues were returning from the spot, two persons came from behind on bullet motorcycle and stopped their motorcycle in front of complainant's Government vehicle. In the meanwhile, 14-15 unknown persons armed with *Dang*, *Sota* and *Datar* came on a tractor and broke the wind-screen of the vehicle and gave

beatings to the complainant and his purse containing Rs. 2,000/- and Identity Card were also snatched. Later on complainant came to know about the names of the accused persons, which includes the name of the petitioner, who is alleged to have been present at the spot and armed with a *dang*. It was further expressed by the complainant that the accused had intention to kill the complainant.

3. Learned counsel for the petitioner *inter alia* contends that no overt act or specific role has been attributed to the petitioner and it is a case of no injury. The offence under Section 307 of Indian Penal Code is added only to aggravate the offences as the complainant is a Government servant. The petitioner is behind the bars since 09.09.2023 and not involved in any other case.

4. Per contra, learned State counsel opposes the prayer for grant of regular bail to the petitioner on the ground that petitioner has been duly named in the FIR and there is sufficient material available on record to prove his complicity in the alleged incident.

5. Having heard the learned counsel for the parties and after perusing the record of the case, it transpires that petitioner is behind the bars since 09.09.2023 and he is not involved in any other case. Investigating Agency has concluded the investigation and submitted the final report under Section 173 of Cr.P.C. on 06.12.2023. Trial of the case has not commenced as none out of 16 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. Culpability, if any, would be determined at the time of the 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 the petitioner- Sonu Singh @ Sona 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.

(HARPREET SINGH BRAR)
JUDGE

13.02.2024
Ajay Goswami

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