

State of Punjab ...Respondent

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CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Mr. Sandeep Kumar, DAG, Punjab.

HARPREET SINGH BRAR, J. (ORAL)

All the above mentioned three petitions have arisen out of the same

FIR, therefore, all are being heard together and decided vide common order,

however, the facts are borrowed from CRM-M-60850-2023.

CRM-M-60850-2023 and all other connected cases**-2-**

The present petitions have been filed under Section 439 Cr.P.C. seeking regular bail in case bearing FIR No.89 dated 10.09.2023 under Sections 379-B/353/186/323/148/149 of IPC registered at Police Station Arniwala, District Fazilka (Annexure P-1).

Brief facts of the case are that on 09.09.2023, Senior Constable Jaswant Singh joined the police party headed by SI Davinder Singh and on the directions of I.O., at about 10:30 PM, he was going to Police Station, Arniwala in the police uniform by riding motor cycle No.PB 22 9220 CT 100 and when he reached about half kilometer behind the village Ghattianwali Bodla, Baljinder Singh @ Babbu armed with *kapa*, Karan Singh armed with baseball, Ajay Singh (petitioner) armed with baseball, Jaspreet Singh armed with *kapa*, Gurpreet Singh armed with baseball, Sukhwinder Singh @ Dhattu (petitioner) armed with *kapa* were standing there on their respective motor cycles and Baljinder Singh @ Babbu took his motor cycle in front of the motor cycle of the complainant and stopped him. Jaspreet Singh (petitioner) gave a *kapa* blow hitting his nose from its reverse side, Ajay gave a baseball bat blow hitting his left cheek, whereupon, he fell down from his motorcycle. Then Baljinder Singh gave *kapa* blow and when he raised his right hand to save from the *kapa* blow, it struck his right little finger. Sukhwinder Singh caught hold him from his uniform, due to which, shoulder and buttons of uniform were broken. After causing him injuries, accused snatched his mobile phone having SIM No.8054500428 and 9877577751 along with his belt. Thereafter, assailants ran away from spot. Meanwhile, Vijay Kumar came at the spot and took him to his house. On the next morning of 10.09.2023, he got himself admitted in Civil Hospital, Fazilka and thus, the present FIR got registered.

CRM-M-60850-2023 and all other connected cases**-3-**

Learned counsel for the petitioners *inter alia* contends that petitioners, Sukhwinder Singh is 19 years of age, Jaspreet Singh is 26 years of age and Ajay Singh is 18 years of age. The FIR (*supra*) has been lodged after a delay of one day and in fact, the minor scuffle had taken place between the petitioners and complainant. The investigating Officer in connivance with the complainant has aggravated the case by making it a case of snatching of mobile of the complainant as the complainant is a police official serving in the Punjab Police. The petitioners are in custody since 10.09.2023 and the Investigating Agency has submitted the final report on 04.11.2023.

Per contra, the learned State counsel has filed the status report as well as custody certificate which are taken on record and opposes the grant of regular bail to the petitioners on the grounds that the petitioners have caused five injuries on the complainant and have also snatched his mobile phone which was recovered from Sukhwinder Singh and Sukhwinder Singh is also involved in one more case 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."

CRM-M-60850-2023 and all other connected cases

-4-

Having heard learned counsel for the parties and after perusing the record of the case, it transpires that the petitioners are behind the bars since 10.09.2023. Investigation is complete. The final report under Section 173 Cr.P.C. was presented before the concerned Court on 04.11.2023. There are 15 prosecution witnesses and trial of the case has not made much progress 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/petitioners. Keeping the petitioners in further detention without the prospect of the trial being concluded in the near future, would be violative of their rights under Article 21 of the Constitution of India.

In view the above, all the three petitions are allowed. Thus, without commenting upon the merits of the case lest it may prejudice the outcome of the trial, the petitioners, namely, Sukhwinder Singh @ Dhattu, Jaspreet Singh and Ajay Singh are ordered to be released on regular bail during trial on their furnishing bail bonds/surety bonds to the satisfaction of Illaqa 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

24.01.2024

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