

211 IN THE HIGH COURT OF PUNJAB AND HARYANA
 AT CHANDIGARH

CRM-M-62596-2023
Date of decision: 12.01.2024

KAMALJIT SINGH

...PETITIONER

V/S

STATE OF PUNJAB

...RESPONDENT

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Ms. Gurpreet Kaur, Advocate
 for the petitioner.

Mr. Sandeep Kumar, DAG, Punjab.

Mr. Jagpal Singh, Advocate for the complainant.

HARPREET SINGH BRAR J. (ORAL)

This is the first petition filed under Section 439 of Code of Criminal Procedure for grant of regular bail to the petitioner in case FIR No.67 dated 16.10.2023 registered under Sections 379 B(2), 34 and 506 of Indian Penal Code at Police Station Jhander, District Amritsar Rural.

2. The FIR was lodged on the statement of one Amit Soni on the allegations that on 16.10.2023, when he was going towards his shop on his motor-cycle, in the meantime, a Fortuner car came near and stopped his motor-cycle. The motor-cycle driven by him fell on the ground. Thereafter, 3 to 4 unknown persons came out of the Fortuner car and by showing the weapons, snatched the laptop of the complainant along with Rs.20,000/- cash. The assailants also took away Adhaar Card of the complainant and one passbook of Punjab and Sind Bank.

3. Learned counsel for the petitioner *inter alia* contends that the

petitioner has not been named in the FIR nor description of the assailants has been given in the FIR and he has been named after a delay of 07 days, in a supplementary statement made by the complainant after due deliberation and now, the complainant has effected a compromise with the petitioner along with co-accused, copy of which is available on record as Annexure P-3.

4. Mr. Jagpal Singh, Advocate has put in appearance on behalf of the complainant and filed his *vakalatnama* which is taken on record. Registry is directed to tag the same at the appropriate place. Learned counsel submits that in fact, the present FIR was lodged due to some misunderstanding and now, the matter has been compromised and the parties are in the process of filing the quashing petition on the basis of compromise.

5. Per contra, the learned State counsel, **on instructions from SI Sakatter Singh, opposes the prayer of grant** of regular bail to the petitioner on the ground that the Fortuner Car used in the snatching has been recovered from the petitioner and one *dattar* has been recovered from the co-accused. As such, the involvement of the petitioner is duly established in the present case.

6. 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.”

7. 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 23.10.2023 and he is not involved in any other case. The trial of the case is likely to take long time. Culpability, if any, would be determined at the time of the trial. No useful purpose would be served by further detention of the accused-petitioner.

8. Keeping in view the facts and circumstances of the case, the present petition is allowed without commenting upon the merits of the case lest it may prejudice the outcome of the trial and the petitioner-Kamaljit Singh 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.

9. 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.

January 12, 2024
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(HARPREET SINGH BRAR)
JUDGE

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|------|---------------------------|--------|
| (i) | Whether speaking/reasoned | Yes/No |
| (ii) | Whether reportable | Yes/No |