



215 **IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

CRM-M-3681-2025

Date of decision: 28.01.2025

SURESH @ NIMBU

...PETITIONER

V/S

STATE OF HARYANA

...RESPONDENT

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Mr. Sahil Choudhary, Advocate
for the petitioner.

Mr. Vikas Bhardwaj, AAG, Haryana.

HARPREET SINGH BRAR, J. (ORAL)

1. The present petition has been filed under Section 483 of BNSS, 2023 read with Section 528 of BNSS, 2023, seeking regular bail to the petitioner in case FIR No.49 dated 16.02.2024, registered under Sections 392, 395, 397, 427 and 506 IPC and Section 25 of the Arms Act, at Police Station Israna, District Panipat.

2. Brief facts of the case are that on 15.02.2024, the complainant Ravinder Kumar son of Randhir Singh came in the Police Station, Israna, and moved a complaint stating therein that he is resident of village Gawalra, District Panipat. On 15.2.2024 at about 3.30 P.M., one ALTO Car bearing registration No.HR-11D-2504 came from Samalkha side for taking petrol in which three boys were sitting. They stated to Salesman Ankush son of Surender, resident of village Mandi to fill the tank of car. The salesman filled the petrol of Rs.2,399/- and after that Salesman gave the key of ALTO Car to driver and asked for money. They shown the pistol and put the salesman Ankush towards car and after that they took Ankush towards Israna side.



Another salesman namely Shivam son of Vikram followed the vehicle and succeed to put out the key of vehicle. In a preplan manner, vehicle bearing no.HR-26CG-9804 black colour Elantra Hyundai was already standing and on mirror of car written Haryana in English letter. Out of them, two boys came out alongwith weapon. All of them, on the point of weapon looted an amount of Rs.11,000/- from Salesman Ankush. In the meantime, Shivam take opportunity and ran away from the spot after taking key of ALTO towards Gawalra side and Ankush also ran away from the spot in order to save his life. Thereafter, said three boys came on foot at petrol pump for taking key and on their back two boys came on vehicle bearing No.HR26CG-9804. All the five persons openly shown the pistol on air and they broken the mirror of Mahendra Pick-Up and Aactiva which were standing on petrol pump. They all five boys threatened to kill them and ran away from the spot alongwith vehicle Elantara. ALTO vehicle was standing on the petrol pump. Salesman told about the same to the complainant.

3. Learned counsel for the petitioner *inter alia* contends that the case of the petitioner is at par with co-accused Jasbir @ Jassu, who was granted the concession of regular bail by this court on 24.01.2025 in case bearing **CRM-M No.2851 of 2025**. Learned counsel submits that four co-accused of the petitioner have already been granted the concession of regular bail by this Court. He further submits that the petitioner is not named in the FIR and he is only alleged to have been present in the Alto car, in which, the other assailants were traveling. He fairly submits that the petitioner is involved in one more case, however, he is on bail in the said case. Lastly, he submits that the petitioner is behind the bars since 28.04.2024.



4. *Per contra*, the learned State counsel opposes the prayer made by the petitioner on the ground that the identity of the petitioner has been duly established as the test identification parade was conducted by the investigating agency and the complicity of the petitioner is also proved based on the CCTV footage obtained from the alleged place of occurrence.

5. A two Judge Bench of Hon'ble Supreme Court in "***Satender Kumar Antil vs. 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. Having heard learned counsel for the parties and after perusing the record of the case, it transpires that the petitioner is behind for the last approximately 09 months. Investigation is complete. The final report under Section 173 Cr.P.C. was presented before the concerned Court. Charges were framed and trial of the case has not made much progress. Out of 31 prosecution witnesses, not even a single witness has been examined till date. 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 their rights under Article 21 of the Constitution of India.

7. 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.

8. 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 namely Suresh *alias* Nimbu is ordered to be released on regular bail during trial on 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 28, 2025
manisha

(HARPREET SINGH BRAR)
JUDGE

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