



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

CRM-M-7149-2025
Date of decision: 10.07.2025

GURWINDER SINGH

...PETITIONER

V/S

STATE OF PUNJAB

...RESPONDENT

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Mr. P.K.S. Phoolka, Advocate for the petitioner.

Mr. Sandeep Kumar, DAG, Punjab.

HARPREET SINGH BRAR, J. (ORAL)

1. This is the first petition filed under Section 483 of Bharatiya Nagarik Suraksha Sanhita, 2023 for grant of regular bail to the petitioner in case bearing FIR No.86 dated 27.07.2024 registered under Sections 310(4) and 310(5) of BNS, 2023 at Police Station Maur, District Bathinda.

2. The FIR in question was lodged pursuant to receipt of a secret information to the effect that Avtar Singh @ Lali, Jaspreet Singh, Teja Singh, Gurwinder Singh (petitioner herein), Jora Singh, Akashdeep Singh, Kulvir Singh and Mandeep Singh were habitual offenders and used to snatch cash, mobile phones etc. from passersby and that on the given day, they were planning to commit some heinous crime and were present near the canal (*sua*) falling under the jurisdiction of Maur Kalan and were armed with deadly weapons. Pursuant to said information, a raid was conducted at the nominated place and 03 persons were apprehended at the spot including the petitioner. Avtar Singh @ Lali was found to be in possession of stolen motor-cycle, while



the petitioner along with other co-accused was found to be in possession of one kirch each.

3. Learned counsel for the petitioner *inter alia* contends that similarly situated co-accused, namely, Avtar Singh @ Lali has been granted the concession of regular bail by a Co-ordinate Bench of this Court vide order dated 26.11.2024 passed in **CRM-M No.49672 of 2024**. He further contends that the FIR (*supra*) was registered on the basis of secret information and apart from the said secret information, there is nothing on record to remotely suggest that the petitioner was making any preparation to commit any crime as alleged in the case set up by the prosecution. Furthermore, the stolen motorcycle was recovered from the possession of co-accused, namely, Avtar Singh @ Lali, who has already been granted the concession of regular bail. The investigation of the case is complete and the petitioner has suffered an incarceration of more than 11 months.

4. Learned State counsel has filed short reply by way of affidavit of Kuldeep Singh, PPS, Deputy Superintendent of Police, Sub-Division Maur, District Bathinda on behalf of respondent-State. The same is taken on record. A copy thereof has been supplied to learned counsel for the petitioner. He produces the custody certificate of the petitioner also, which is taken on record and *per contra* opposes the prayer for grant of regular bail to the petitioner on the ground that the petitioner was apprehended at the spot along with a sharp edged weapon and his complicity is duly established. Further, the petitioner is a habitual offender as he is involved in other cases also. As such, he is not entitled to any relief. However, he could not controvert the fact that the co-accused has already been enlarged on bail by this Court.



5. Having heard learned counsel for the parties and after perusing the record of the case, it transpires that the petitioner is behind the bars from the last 11 months and 08 days. Investigation is complete. The final report under Section 173 Cr.P.C. was presented before the concerned Court and trial of the case will take considerable long time to conclude as out of 07 prosecution witnesses, not 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.

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 demo cracy, there can never be an impression that it is a police State as both are conceptually opposite to each other."

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 discussion above, the present petition is allowed. Accordingly, without commenting upon the merits of the case, the petitioner- Gurwinder Singh is ordered to be released on regular bail during pendency of the trial, on furnishing bail bonds/surety bonds to the satisfaction of Illaqa Magistrate/Trial Court/Duty Magistrate.

9. Nothing observed hereinabove shall be construed to be expression of an opinion by this Court on merits of the case. The learned Court below is directed to proceed with the matter on its own merits, lest it may prejudice the trial.

July 10, 2025
manisha

(HARPREET SINGH BRAR)
JUDGE

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