



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

221

CRM-M-9760-2025 (O&M)
Date of decision: 25.02.2025

Hasim @ Mohd. Hasim

....Petitioner

Versus

State of Haryana

....Respondent

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Mr. Munfaid Khan, Advocate
for the petitioner.

Mr. S.K. Panwar, Addl. A.G., Haryana.

HARPREET SINGH BRAR J. (Oral)

1. Prayer in this petition filed under Section 483 of the BNSS, 2023, is for grant of regular bail to the petitioner in FIR No.509 dated 18.08.2023 registered under Sections 379-A, 34 IPC at Police Station Mujesar, District Faridabad.
2. As per the allegations in the FIR, on 14.08.2023, at around 8:00 PM, Deepak, resident of House No.220, Sector 55, Faridabad, was heading home from Bata via the highway. As he passed a point approximately 15 feet from the highway chowk on the left side, two persons on a motorcycle crossed him, and one of them forcibly snatched his mobile phone make Samsung Galaxy M13 (dark blue colour) from his right hand before fleeing from the spot. Due to darkness, Deepak was unable to see the motorcycle's registration number. Despite searching for the culprits, he could not locate them. The mobile phone bearing IMEI Nos.355142440378165 and 357003800378161, has been



deactivated. Thereafter, on the basis of a complaint filed by the complainant, the FIR (supra) was registered.

3. Learned counsel for the petitioner *inter alia* contends that the petitioner has been falsely implicated and he has no connection with the alleged incident and the petitioner is not named in the FIR and he has been nominated as an accused in the FIR (supra), on the basis of the confessional statement made by the petitioner during the police custody. Further to establish the identity of the petitioner as one of the assailants, test identification parade has not been conducted and there is no evidence which could remotely connect the petitioner with the alleged incident and the recovery of the snatched mobile phone has been planted upon the petitioner and recovery of one mobile phone has been shown to have been effected from the petitioner and his co-accused jointly.

4. Learned counsel for the petitioner further submits that the petitioner is in custody since 13.11.2024 and there are total 13 prosecution witnesses cited in the list of witnesses, out of which, none has been examined till date and the trial is likely to take long time in conclusion.

5. *Per contra*, learned State counsel has filed custody certificate today in the Court which is taken on record and he opposes the prayer made by learned counsel for the petitioner on the ground that the petitioner is a habitual offender and he is involved in 04 more cases of similar nature and there is sufficient material available on record to prove the complicity of the petitioner, however, he could not controvert



the fact that the petitioner has been nominated in the FIR (supra) on the basis of his own disclosure statement and out of 13 prosecution witnesses, none has been examined till date.

6. 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 03 months and 11 days. 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 13 prosecution witnesses, none has been examined so far.

7. 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."

8. Further the culpability, if any, would be determined at the time of trial and as such, no useful purpose will be served by further detention of the petitioner-accused. Keeping the petitioner in further



detention without the prospect of the trial being concluded in the near future, would be violative of his rights under Article 21 of the Constitution of India.

9. Further 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.

10. In view the discussion above, the present petition is allowed. Accordingly, without commenting upon the merits of the case, the petitioner namely Hasim @ Mohd. Hasim is ordered to be released on regular bail during pendency of the trial, on his furnishing bail bonds/surety bonds to the satisfaction of Illaqa Magistrate/Trial Court/Duty Magistrate.

11. 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.

(HARPREET SINGH BRAR)
JUDGE

25.02.2025

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Whether speaking/reasoned: Yes/No

Whether reportable: Yes/No