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

CRM-M-12538-2025
Date of decision: 11.03.2025

Joginder Singh alias Joga ....Petitioner

Versus

State of Haryana ...Respondent

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Mr. Sudhir Rana, 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 Bharatiya Nagarik Suraksha Sanhita, 2023 seeking regular bail in case bearing FIR No.163 dated 24.06.2024 under Sections 395/412/201/120-B of IPC and Section 25 of Arms Act, 1959 registered at Police Station Chhachhrauli, District Yamuna Nagar.

2. The case set up in the FIR (supra) (as set out by the petitioner in the present petition) is as follows:-

> *"The summary of the case is as follows, that on 24.06.2024, the complainant Ashok Kumar son of Shri Rajeshwar Prasad, House No.5/99, Mohalla Kanhaiya Lal Chhachhraull, District Yamunanagar, came to the police station Chhachhrauli and presented an application which is under. To the Police Station House Officer Chhachhrauli, request that I, Ashok Kumar son of Shri Rajeshwar Prasad, resident of House No.5/99, Mohalla Kanhaiya Lal Chhachhrauli, District Yamunanagar. I have a plywood factory in the name of Shri Vaishnavi Products in Village Hadauli, which we set up in the year 2019. Our factory has been closed for about 18 months. We have kept two watchmen there, out of which one is Rajesh Kumar son of Shri Chhagelal, resident of Village Nagalakhuru, District Farrukhabad, Uttar Pradesh and another namely Jaikumar son of Shri Roshan Lal, resident of Hadauli, District Yamunanagar. On 24-06-2024, around 5:00 AM, I received a call informing me about a theft in the factory. After which I reached the spot and found both the watchmen there. They*

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> *told me that around 12 in the night, 5 unknown youths entered the factory from the back door. They might have more accomplices behind them. They tore our clothes and held us hostage with those clothes. Then they opened the transformer at the back and took away copper coils and all the valuables from inside it. While leaving, they broke the lock of the office and took away the DVR of the camera. Hence, I request you to recover our belongings and take strict action against the accused. SD Ashok Kumar Ashok Kumar XXXXXX..... Police proceedings."*

3. Learned counsel for the petitioner *inter alia* contends that 05 persons have been nominated as an accused in the FIR *(supra)* and 04 of the co-accused, namely, Ravi Kumar, Imran, Mohd. Mehlood and Mohit, have already been granted the concession of regular bail by this Court vide orders dated 13.01.2025, 05.02.2025, 11.02.2025 and 24.02.2025 passed in CRM-M-65317-2024 (O&M), CRM-M-5613-2025, CRM-M-6751-2025 and CRM-M-9524-2025 (O&M), respectively. He further submits that the petitioner is in custody since 23.08.2024.

4. Learned counsel for the petitioner further submits that there are total 24 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, the learned State counsel has filed custody certificate in the Court today and the same is taken on record and per contra, opposes the grant of regular bail to the petitioner on the ground that the petitioner is the leader of the gang and he is involved in three more cases, as such, being a habitual offender, he is not entitled to any relief.

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:

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> *"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 learned counsel for the parties and after perusing the record of the case, it transpires that the petitioner is behind the bars since 23.08.2024. Investigation is complete. The final report under Section 173 Cr.P.C. was presented before the concerned Court and trial of the case has not made much progress as out of 24 prosecution witnesses, none has been examined 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/petitioner. 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.

8. 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.

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9. 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-Joginder Singh alias Joga 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.

10. 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

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

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