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

CRM-M-14543-2025 (O&M)

Date of Decision: 03.07.2025

KULWINDER SINGH @ MADDAR

...PETITIONER

Versus

STATE OF PUNJAB

...RESPONDENT

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Mr. J.S. Thakur, Advocate
for the petitioner.

Mr. Nitesh Sharma, DAG Punjab.

Harpreet Singh Brar, J. (Oral)

1. This is the first petition filed under Section 483 of Bhartiya Nagrik Suraksha Sanhita, 2023 (for short 'BNSS') for grant of regular bail to the petitioner in case bearing FIR No. 231 dated 29.12.2021 registered under Sections 379-B, 34 of Indian Penal Code (hereinafter to be referred as 'IPC') Section 411 of IPC added later on at Police Station Majithia Road District Amritsar Commissionerate.

2. FIR(supra) was registered on the allegations that on 28.12.2021 at about 9.45 PM, complainant along with his friend Gurwinder Singh were going in their car and at about 10.00 PM, his friend stopped the car near Arora Ice-cream and went to purchase an ice cream. Thereafter, from the front side, two turban persons came, whose faces were covered with muffler, out of which one young boy opened the left door of the car and asked the complainant to come out of the car and pointed pistol towards him. Thereafter the second person opened the door of the driver side and sat in the car. Thereafter, the person who pointed the pistol towards the complainant, threatened to kill him. Thereafter these two boys snatched the car by pointing pistol at the complainant party.



3. Learned counsel for the petitioner *inter alia* contends that petitioner is not named in the FIR and further there is no corroborative material available on record to connect him with the alleged incident. Further, there is no evidence to establish the identity of the petitioner as one of the assailants. Admittedly, the petitioner was not earlier acquainted with the complainant. Still no identification parade was conducted to prove the identity of the petitioner as one of the assailants and petitioner has suffered the incarceration of more than 03 years and 02 months and after his arrest in this case, on the basis of his self incriminating confessional statement, he has been involved in many other cases and out of those cases, except two cases, he is on bail in all those cases. Further, in spite of passing of more than 03 years, the prosecution has failed to conclude its evidence as the trial has only reached the halfway stage.

4. Learned State counsel produces the custody certificate of the petitioner, which is taken on record and *per contra*, opposes the grant of regular bail to the petitioner on the ground that the incidents of snatching are on the rise and terror has been created by the petitioner in the mind of general public, which is detrimental to the rule of law and the petitioner is not entitled to any relief by this Court as he is involved in 21 cases of similar nature. However, he could not controvert the fact that petitioner has suffered incarceration of more than 03 years and 02 months.

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 03 years 02 months as on 02.07.2025. Investigation of the case 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 it has only



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reached the halfway stage. 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 democracy, there can never be an impression that it is a police State as both are conceptually opposite to each other."

7. In view of the ratio of law laid down by Hon'ble Supreme Court in **Prabhakar Tiwari Vs. State of UP and Anr.** 2020(1) RCR (Criminal) 831 and **Maulana Mohd. Amir Rashadi Vs. State of U.P. and Others** 2012(2) SCC 382, the involvement of accused in other criminal cases cannot be the sole ground to deny him the concession of bail.

8. In view the discussion above, the present petition is allowed. Accordingly, without commenting upon the merits of the case, the petitioner- Kulwinder Singh @ Maddar 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.



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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.

(HARPREET SINGH BRAR)
JUDGE

03.07.2025

Ajay Goswami

Whether speaking/reasoned
Whether reportable

Yes/No
Yes/No