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

CRM-M-17039-2024

Date of decision: 08.01.2025

Firoj

....Petitioner

Versus

State of Haryana

...Respondent

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR**Present:** Mr. Munfaid Khan, Advocate
for the petitioner.

Ms. Geeta Sharma, DAG, Haryana.

HARPREET SINGH BRAR, J. (ORAL)

1. The present petition has been filed under Section 439 Cr.P.C. seeking regular bail in case bearing FIR No.719 dated 21.09.2022 (Annexure P-1) under Sections 392/397/452/506/34 of IPC and Section 25 of Arms Act, 1959 registered Police Station Sector-58, Faridabad, District Faridabad.

2. The FIR (*supra*) was registered on the statement of the complainant by alleging that on 21.09.2022, her father-in-law and her husband went to their shop at around 09:45 A.M. Thereafter, at about 10:15 A.M., three unknown persons wearing black clothes entered into her house and out of them, one person, pointed knife and pistol on her and on her mother-in-law's neck and threatened to kill them. It is further alleged that after looting all the jewellery and cash, they confined the complainant and her mother-in-law in the bathroom and thus, the instant FIR got registered.

3. Learned counsel for the petitioner *inter alia* contends that petitioner has been falsely implicated in the present case on the basis of his confessional statement recorded by the Investigating Officer while in police



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custody which has no evidentiary value in the eyes of law and the investigation of the case is complete. He further submits that the petitioner is behind the bars since 14.02.2023 and similarly situated co-accused, namely, Sanjay, was granted the concession of anticipatory bail by the Coordinate Bench of this Court vide order dated 14.03.2024 passed in CRM-M-46561-2023 (O&M) titled as 'Sanjay Vs. State of Haryana'.

4. The learned State counsel has filed custody certificate in the Court today which is taken on record and per contra, opposes the grant of regular bail to the petitioner on the ground that the petitioner has committed a robbery and a country made pistol along with live cartridge and gold ornaments have been recovered from the possession of the petitioner and he was also seen in the CCTV footage. She further submits that the petitioner is involved in one more case but could not controvert the fact that the similarly situated co-accused has been granted the concession of anticipatory bail by the Coordinate Bench of this Court.

5. 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.”

6. Having heard the learned counsel for the parties and after perusing the record of the case, it transpires that the petitioner is behind the bars since 14.02.2023. 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 only 01 out of 22 prosecution witnesses 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.

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 the grant of concession of regular bail.

8. In view of 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-Firoj is ordered to be released on regular bail

during the pendency of the trial

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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.

(HARPREET SINGH BRAR)
JUDGE

08.01.2025*Neha*

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