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IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M-25471-2025 (O&M)

Date of decision: 12.05.2025

Gopal @ Gopala

... Petitioner

Vs.

State of Haryana

... Respondent

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Mr. Kapil Aggarwal, Advocate
for the petitioner.

HARPREET SINGH BRAR, J. (ORAL)

1. Present petition has been filed under Section 482 of the Bharatiya Nagarik Suraksha Sanhita, 2023 (for short 'BNSS') seeking anticipatory bail in FIR No.351 dated 07.10.2024 under Sections 331(4), 305, 238, 317(2) of the Bharatiya Nyaya Sanhita, 2023 (for short 'BNS') (*offences under Sections 111(2)B, 111(3) & 111(4) of BNS were added later on*), registered at Police Station Ambala City, District Ambala.

2. Briefly, the facts of the case are that FIR (*supra*) was registered on the basis of an application moved by complainant Sonia Walia on the allegations that due to her ill-health, she went to her daughter's house and other members of her family were also out of station. On 07.10.2024, at

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about 07.00 p.m., she received an information from her neighbour that locks put on her house are broken. When the complainant returned and entered her house, she found broken locks of the almirahs of her daughter-in-law, in which, about 800 grams of gold, about 08 kgs of silver, 01 diamond set and 01 diamond earring choker gold set with earring of her daughter-in-law, 01 pair of gold kara, 04 gold necklaces with earrings, 06 gold earring set, 04 gold rings, 02 gold chains, diamond earring, maang teeka, 10 articles and gold of chain of her grandson, gold kara, gold ring, 01 gold chain of her granddaughter, golden ring, golden kara, 04 set of golden earrings, 02 gold chains of her son, 04 gold rings, 01 silver article about 08 kgs, consisting of 08 pairs of anklets, gents kara of 500 grams, 250 grams each and 02 silver plates each weighing 500 grams, glass, bowl, spoon, statue of Ganesh Laxmi Ji, about 15 sets of kara of children, silver chain and her gold kara, gold chain, golden earrings, 04 gold rings, gold tops, silver coins and statue of Mother Laxmi and Ganesh ji, silver anklet and cash of Rs.2.00 lakhs, were lying. Thereafter, the complainant got registered the FIR (*supra*) and prayed to recover the aforementioned articles.

3. Learned counsel for the petitioner, *inter alia*, contends that the petitioner was arrested on 30.11.2024 and stolen articles, which were purchased by the petitioner, had already been recovered. Thereafter, the petitioner was released on regular bail by learned Sessions Judge, Ambala vide order dated 13.01.2025 (Annexure P-2). Further, the investigating



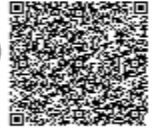
agency has concluded the investigation and presented the final report under *Section 193 of BNSS [erstwhile Section 173 of the Code of Criminal Procedure, 1973 (for short 'Cr.P.C.')]* . Subsequently, new Sections i.e. Sections 111(2)B, 111(3) & 111(4) of BNS were added. It is further contended that the petitioner is not named in the FIR (*supra*) and no specific role has been attributed to him. As such, custodial interrogation of the petitioner is not required.

4. Notice of motion.

5. Ms. Geeta Sharma, DAG, Haryana, who is present in the Court, accepts notice on behalf of the respondent-State. She could not controvert the fact that the investigation of the case is complete and final report under Section 193 of BNSS (*erstwhile Section 173 of Cr.P.C.*) has already been presented before the jurisdictional Court and offences under Sections 111(2)B, 111(3) & 111(4) of BNS were added subsequently. Even the supplementary challan has been presented.

6. Having heard learned counsel for the parties and after perusing the record of the case with their able assistance, it transpires that the petitioner has not misused the concession of regular bail granted on 13.01.2025 by learned Sessions Judge, Ambala and the trial of the case is progressing, as such, his custodial interrogation is not required. His presence is required before learned trial Court.

7. A two Judge Bench of the 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 as under: -

“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. Keeping in view the aforesaid facts and circumstances, present petition is allowed and the petitioner is directed to appear before learned trial Court within a period of two weeks and on his doing so, he will be admitted to bail on his furnishing bail/surety bonds to the satisfaction of learned trial Court/Illaqa Magistrate concerned.

12.05.2025
vishnu

[HARPREET SINGH BRAR]
JUDGE

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No