



IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

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CRM-M-29417-2024 (O&M)

Date of decision: 03.03.2025

Ajay

....Petitioner

Versus

State of Haryana

....Respondent

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Mr. Dilpreet Singh Gandhi, Advocate
for the petitioner.

Mr. Vikas Bhardwaj, AAG, Haryana.

HARPREET SINGH BRAR J. (Oral)

CRM-8997-2025

Prayer in the instant application filed under Section 528 of BNSS, 2023 is for placing on record the copy of bail orders dated 28.08.2023, 28.08.2023 and 13.12.2023 as Annexures P-6 to P-9.

Allowed as prayed for subject to all just exceptions.

CRM-M-29417-2024 (O&M)

1. Prayer in this 2nd petition filed under Section 439 Cr.P.C., is for grant of regular bail to the petitioner in FIR No.197 dated 14.05.2022 registered under Sections 392, 458, 397 and 34 IPC, Section 25 of the Arms Act, at Police Station Uchana Road, District Jind.
2. Learned counsel for the petitioner submits that the 1st petition was dismissed as withdrawn on 26.04.2024 and the present petition has been filed on the ground of long incarceration of the petitioner and delay in conclusion of the trial.



3. As per the allegations in the FIR, on 14.05.2022, an information was received from Control Room, Jind that an incident of snatching the money has taken place at Budha Petrol Pump, Khatkar. On receiving this information, ASI Amit Kumar along with other police officials reached Budha Petrol Pump, Khatkar where the glasses of office situated in Petrol Pump were broken. ASI Amit Kumar took the photographs of the spot from his mobile phone. On asking, complainant Krishan Lal son of Rania resident of Khatkar District Jind moved a complaint wherein he stated that he is resident of above said address and he has a Petrol Pump in the name of Budha Petro near Khatkar. On 14.5.2022, he and his salesman Pankaj son of Om Parkash resident of Khatkar were sleeping in the night after closing the pump. At about 4.00 AM, three young boys came on a motorcycle. They broke-down the glass gate with axe and came inside and asked them to hand over the money. They snatched Rs.7,000/- from the pocket of Pankaj salesman and Rs.5000/- from cash box total Rs.12,000/-. One boy was having an axe, one was having a pistol and one was empty handed. He thus prayed for taking legal action against the accused persons and to get recovered their amount.

4. Learned counsel for the petitioner *inter alia* contends that the petitioner is neither named in the FIR nor he was arrested at the spot and the recovery which is shown to have been effected from the petitioner has been made after 06 months from the date of registration of the FIR, which clearly indicates that the recovery has been planted upon



the petitioner. Further the complainant and eye-witness namely Krishan and Pankaj, have not supported the case of the prosecution and they have been declared hostile by the Public Prosecutor. The only evidence available on record against the petitioner is his self-incriminating confessional statement recorded during his custodial interrogation, which alone would not be sufficient to make the petitioner liable for the alleged offence.

5. Learned counsel for the petitioner further submits that the petitioner is behind the bars since May, 2022 and as per the Custody Certificate, he has undergone total custody of 02 years, 08 months and 16 days as on 01.03.2025. He further submits that there are total 20 prosecution witnesses cited in the list of witnesses, out of which, 15 PWs have already been examined till date and 05 PWs are yet to be examined and the trial is likely to take long time in conclusion.

6. *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 06 more cases of similar nature, however, he could not controvert the fact that the petitioner has suffered the incarceration for a period of more than 02 years and 08 months.

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 from the last 02 years, 08 months and 16 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 20 prosecution witnesses, 15 PWs have been examined so far.

8. 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."

9. 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.

10. 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.

11. In view the discussion above, the present petition is allowed. Accordingly, without commenting upon the merits of the case, the petitioner namely Ajay 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.

12. 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

03.03.2025
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Whether speaking/reasoned:	Yes/No
Whether reportable:	Yes/No