

2. The FIR in the present case was registered on the statement of complainant Ramkumar son of Maniram dated 21.01.2025 wherein, he informed that he is working as a salesman at Sokhal Kissan Seva Kendar, Patrol Pump. On 21.01.2025, he along with Anil Kumar was on duty at the patrol pump. At about 11:30 PM, four persons with muffled faces while



being armed with swords and iron rods came there and broke open the gate of the room and took Rs.1,20,740/- along with his mobile phone as well as DVR of the CCTV camera installed at the patrol pump. With these allegations, present FIR was registered against unknown persons under Sections 307, 317(2) of BNS. Subsequently, complainant got recorded his supplementary statement on the basis of which, petitioner and co-accused were nominated as accused in this case.

3. Learned counsel for the petitioner *inter alia* contends that the FIR (*supra*) was registered against four unknown persons. Thereafter, supplementary statement of the complainant was recorded, on the basis of which, the petitioner along with other co-accused were nominated. He further contends that the case against all the accused persons is identical in nature and apart from the petitioner, all other accused are on bail and one co-accused, namely, Manish Kumar has also been granted the concession of regular bail by learned Additional Sessions Judge, Fazilka as discernible from order dated 12.03.2025 (Annexure P-2). The investigation of the case is complete. Learned counsel submits that the offences, under which, the FIR (*supra*) has been registered, are triable by Magistrate and out of total 14 witnesses, none has been examined till date.

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 during investigation, the complicity of the petitioner is duly established and he is involved in one more case. However, learned State counsel could not controvert the fact that apart



from the petitioner, all other accused are on bail and the case against the petitioner is identical to the case against other co-accused.

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 for the last 02 months and 23 days. Investigation 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 out of total 14 prosecution witnesses, not even a single witness 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.

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. 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.

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

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.

July 09, 2025
manisha

(HARPREET SINGH BRAR)
JUDGE

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|------|---------------------------|--------|
| (i) | Whether speaking/reasoned | Yes/No |
| (ii) | Whether reportable | Yes/No |