



IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

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CRM-M No.41262 of 2024
Date of decision: 28.01.2025

Mohd. Raffi @ Raffi

....Petitioner

Versus

State of Punjab

....Respondent

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Mr. Raghav Goyal Chandiwalla, Advocate
for Mr. Amrit Kang, Advocate
for the petitioner.

Mr. Sandeep Kumar, DAG, Punjab.

HARPREET SINGH BRAR J. (Oral)

1. Prayer in this petition filed under Section 483 of the BNSS, 2023, is for grant of regular bail to the petitioner in FIR No.15 dated 29.01.2024 registered under Section 379-B(2) IPC (Section 411 IPC added later on) at Police Station Focal Point, District Ludhiana.
2. The FIR (supra) was registered on the statement made by victim Karandeep Singh, who approached the police on 29.01.2024 with the complaint that on 28.01.2024 at 09:00 PM, when he was going by his Activa bearing registration No.PB-10HH-6255 and was a little ahead of his factory, six persons came by two motorcycles, who were armed with weapons. They restrained him, snatched his mobile phone make Realme and cash amount of Rs.4000/- and fled away after giving him beatings.

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3. Learned counsel for the petitioner *inter alia* contends that the co-accused of the petitioner namely Anmol Tiwari @ Anamol Tiwari, has already been granted the concession of regular bail by this Court on 10.01.2025 passed in CRM-M No.55737 of 2024. He submits that the petitioner is behind the bars for the last 11 months and 26 days and not even a single witness has been examined till date. Further no independent witness from the locality where the alleged incident has taken place has been made witness and even the CCTV footage from the adjoining shops situated in the market was not procured by the investigating agency and the case of the petitioner is at par with the co-accused.

4. Learned counsel for the petitioner further submits that there are total 10 prosecution witnesses cited in the list of witnesses, out of which, none has been examined till date and the trial is likely to take long time in conclusion.

5. *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 identity of the petitioner has been duly established and the snatched mobile phone has been recovered from the possession of the petitioner, however, he could not controvert the fact that the petitioner is not involved in any other case.

6. 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 11 months and 26 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 10 prosecution witnesses, none has been examined so far.

7. 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."

8. 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

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future, would be violative of his rights under Article 21 of the Constitution of India.

9. In view the discussion above, the present petition is allowed. Accordingly, without commenting upon the merits of the case, the petitioner namely Mohd. Raffi @ Raffi 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.

10. 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

28.01.2025
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Whether speaking/reasoned:	Yes/No
Whether reportable:	Yes/No