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

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CRM-M-41816-2024

Date of Decision : 13.01.2025

BALRAM

.... PETITIONER

V/S

STATE OF HARYANA

.... RESPONDENT

CORAM : HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present : Mr. Pawan Kumar Hooda, 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.0049 dated 16.02.2024 under Sections 392, 395, 397, 427 and 506 of IPC and Section 25 of Arms Act registered at Police Station Israna, District Panipat.

2. Brief facts of the case are that on 15.2.2024, complainant Ravinder Kumar son of Randhir Singh came in the Police Station, Israna, and moved a complaint stating therein that he is resident of village Gawalra, District Panipat. On 15.2.2024 at about 3.30 P.M., one ALTO Car bearing registration no.HR-11D-2504 came from Samalkha side for taking petrol in which three boys were sitting. They stated to Salesman Ankush son of Surender, resident of village Mandi to fill the tank of car.

The salesman filled the petrol of Rs.2,399/- and after that Salesman gave

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the key of ALTO Car to driver and asked for money. They shown the pistol and put the salesman Ankush towards car and after that they took Ankush towards Israna side. Another salesman namely Shivam son of Vikram followed the vehicle and succeed to put out the key of vehicle. In a preplan manner, vehicle bearing no.HR-26CG-9804 black colour Elentra Hyundai was already standing and on mirror of car written Haryana in English letter. Out of them, two boys came out alongwith weapon. All of them, on the point of weapon looted an amount of Rs.11,000/- from Salesman Ankush. In the meantime, Shivam take opportunity and ran away from the spot after taking key of ALTO towards Gawalra side and Ankush also ran away from the spot in order to save his life. Thereafter, said three boys came on foot at petrol pump for taking key and on their back two boys came on vehicle bearing no.HR-26CG-9804. All the five persons openly shown the pistol on air and they broken the mirror of Mahendra Pick-Up and Aactiva which were standing on petrol pump. They all five boys threatened to kill them and ran away from the spot alongwith vehicle Alentara. ALTO vehicle was standing on the petrol pump. Salesman told about the same to the complainant.

3. Learned counsel for the petitioner *inter alia* contends that the petitioner has been falsely implicated in the FIR (supra). His name is not mentioned in the FIR and further as per initial version, the petitioner is not one of the assailants who came to the petrol pump in an Alto car. The petitioner, after investigation of the FIR, has been involved in two more cases and he is on bail in both the cases. Further, the complainant and the

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Investigating Officer was not known to the petitioner and to establish his identity, test identification parade was not conducted. Investigation is complete and the petitioner is behind the bars since 19.04.2024.

4. Custody certificate filed by learned State counsel is taken on record.

5. Per contra, the learned State counsel opposes the prayer made by the petitioner on the ground that a country made pistol has been recovered from the petitioner in another case and he is part of the gang who are habitual of looting innocent persons. He is involved in two more cases.

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.

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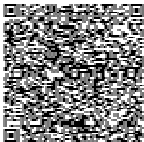
In a democracy, there can never be an impression that it is a police State as both are conceptually opposite to each other.”

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 since 19.04.2024. 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 31 prosecution witnesses, not even a single witness has been examined till date. 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.

8. 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.

9. In view 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- Balram is ordered to be released on regular bail during trial on his furnishing bail bonds/surety bonds to the

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satisfaction of Illaqa Magistrate/Trial Court.

10. 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

13.01.2025
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Whether speaking/reasoned : Yes/No
Whether Reportable : Yes/No