



**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**
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CRM-M-39785-2025 (O&M)
Date of decision: 31.07.2025

Mohammad Aazad @ Kundu
.....Petitioner
Versus
State of Haryana
.....Respondent

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Ms. Neha Bindal, Advocate
for Mr. Khalid Tauru, Advocate
for the petitioner.

Mr. Vikas Bhardwaj, AAG, Haryana.

HARPREET SINGH BRAR J. (Oral)

CRM-28560-2025

Allowed as prayed for.

CRM-M-39785-2025

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.80 dated 29.01.2019 registered under Sections 379-A, 201, 34 IPC at Police Station Sadar Gurugram, District Gurugram.
2. As per the prosecution version, the FIR in the present case was registered on 29.01.2019 at about 20:45 hours at Subhash Chowk, Sohna Road, Gurugram, on the complaint of Sawaliya son of Jas Ram alleging that his mobile phone was snatched by three persons riding on a Pulsar motorcycle. The investigation commenced and on 12.04.2019, an untrace report was filed in this case. However, during investigation in



another case (FIR No. 297 dated 02.09.2018 under Section 379 IPC, Police Station City Sohna, Gurugram), Azad @ Kundu (petitioner herein) made a disclosure statement admitting his involvement in the present crime as well. On this basis, he was arrested in the present case and the snatched mobile phone was recovered from him.

3. Learned counsel for the petitioner *inter alia* contends that the petitioner has been falsely implicated in the FIR (supra). The petitioner is not named in the FIR (supra) and the impugned FIR was planted upon him when he was apprehended in another FIR. The petitioner was granted the concession of regular bail by the learned trial Court vide order dated 15.04.2021 and thereafter, he continued to appear before the learned trial Court, however, he could not appear on one occasion and his bail was cancelled and his bail/surety bonds were forfeited to the State. Subsequently, the petitioner was declared as proclaimed offender on 23.03.2023. After his arrest on 05.12.2024, the petitioner has suffered the sufficient incarceration. Further, prior to his release on bail on 15.04.2021, the petitioner has suffered the incarceration of almost 20 months. Moreover, the prosecution has failed to establish the identity of the petitioner as one of the assailant who has snatched the mobile phone of the complainant. Learned counsel for the petitioner further submits that the petitioner undertakes to appear before the learned trial Court on each and every date of hearing.



4. Learned counsel for the petitioner further submits that there are total 16 prosecution witnesses cited in the list of witnesses, out of which, 03 PWs have been examined till date and the trial is likely to take long time in conclusion.

5. *Per contra*, learned State counsel opposes the prayer made by learned counsel for the petitioner on the ground that the complicity of the petitioner is duly established and the stolen mobile phone was recovered from him pursuant to the disclosure statement suffered by him and he is also involved in other cases also of similar nature and as such, he is not entitled to any relief, however, he could not controvert the fact that only 03 PWs have been examined so far.

6. Having heard learned counsel for the parties and after perusing the record of the case, it transpires that the petitioner has suffered the incarceration of almost 20 months. 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 16 prosecution witnesses, 03 PWs have 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 future, would be violative of his rights under Article 21 of the Constitution of India.

9. 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.

10. In view of the above discussions, the present petition is allowed. Accordingly, without commenting upon the merits of the case, the petitioner namely Mohammad Aazad @ Kundu 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.

11. 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

31.07.2025
yakub

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