



205 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-55737-2024 (O & M)
Date of decision: 10.01.2025

ANMOL TIWARI ALIAS ANAMOL TIWARI

...PETITIONER

V/S

STATE OF PUNJAB

...RESPONDENT

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Mr. Gitesh Sharma, Advocate
for the petitioner.

Mr. Sandeep Kumar, DAG, Punjab.

HARPREET SINGH BRAR, J. (ORAL)

1. This is the first petition filed under Section 483 of Bharatiya Nagarik Suraksha Sanhita, 2023 for grant of regular bail to the petitioner in case bearing FIR No.15 dated 29.01.2024 registered under Sections 379-B(2)/411 of IPC at Police Station Focal Point, Ludhiana (Annexure P-1).

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 P.M., 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.

3. Learned counsel for the petitioner *inter alia* contends that the petitioner is not named in the FIR (supra) and is not involved in any other case.

Learned counsel further contends that the victim was not earlier known to the petitioner and the investigating officer has not conducted the Test Identification



Parade to establish the identity of the assailants. Further, no witness from the locality, where the alleged incident took place, has been made a witness. Even CCTV footage from the shop situated in the market, was also not procured by the investigating officer. The petitioner is behind the bars for the last more than 11 months and out of total 10 witnesses, not even a single witness has been examined till date.

4. Learned State counsel produces status report by way of an affidavit of Jasbinder Singh, PPS, Assistant Commissioner of Police, Industrial Area-A, Ludhiana as well as the custody certificate, which are taken on record and *per contra*, opposes the grant of regular bail to the petitioner on the ground that the identity of the petitioner has been duly established and weapon of offence along with 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.

5. Having heard learned counsel for the parties and after perusing the record of the case with their able assistance, it transpires that the petitioner is behind the bars since 01.02.2024. The investigating agency has already concluded the investigation and has submitted the final report under Section 173 Cr.P.C. The trial of the case has not made any progress as out of 10 prosecution witnesses, none has been examined so far. The culpability, if any, would be determined at the time of trial. 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.

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. In view of the above, the present petition is allowed and the petitioner-Anmol Tiwari *alias* Anamol Tiwari is ordered to be released on regular bail during trial on his furnishing bail bonds/surety bonds to the satisfaction of Illaqa Magistrate/Trial Court.

8. Nothing observed hereinabove shall be construed to be an expression of opinion by this Court lest it may prejudice the trial. The learned trial Court is directed to proceed with the trial on its own merits, strictly in accordance with law.

January 10, 2025
manisha

(HARPREET SINGH BRAR)
JUDGE

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