



IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

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CRM-M No.63075 of 2024
Date of decision: 21.01.2025

Pintu Singh
.....Petitioner
Versus
State of Haryana
.....Respondent

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Mr. Saajan Singla, Advocate
for the petitioner.
Mr. Vikas Bhardwaj, AAG, Haryana.

HARPREET SINGH BRAR J. (Oral)

1. Prayer in this petition filed under Section 439 Cr.P.C. (corresponding Section 483 of the BNSS, 2023), is for grant of regular bail to the petitioner in FIR No.54 dated 27.01.2012 registered under Sections 395, 397 IPC at Police Station Kundli, District Sonapat.
2. The brief facts of the case are that a complaint was filed by one Devanand, resident of village Badhana, who works for S.L.V. Security. He stated that on the night of 26.01.2012, while he was on duty at Minda Factory in village Rasoi, approximately 20 individuals attacked him. They also apprehended several other persons including Mohammad Salim, Arjun Singh, Rakesh, Sales, Narender, and Surender Jha and the attackers stole several mobile phones, tied up the victims, and locked them in a room. Some of the perpetrators stole items from a company store and an almirah belonging to Alok Ji. Devanand

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informed his superiors, H.R.M. Gajinder Singh and Alok Ji, as well as the police station about the incident. Thereafter, the impugned FIR was registered.

3. Learned counsel for the petitioner *inter alia* contends that the petitioner is not named in the FIR and 20 unknown persons have been named and some of the accused were arrested during the course of investigation and the petitioner has been nominated as an accused only on the basis of disclosure statement made by the co-accused while in police custody, which has no evidentiary value in the eyes of law and the same is hit by Section 25 of the Indian Evidence Act. He further submits that 05 of the accused, who faced the full length trial have been acquitted by the learned Additional Sessions Judge, Sonapat, vide judgment dated 05.04.2022 and the petitioner was never aware of the fact that he has been nominated as an accused and thereafter, he was declared as proclaimed offender, however, the petitioner was arrested on 05.04.2024 and the investigation of the case is complete.

4. Learned counsel for the petitioner further submits that there are total 33 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 and on the basis of the same set of allegations, the co-accused of the petitioner have already been acquitted and nothing has been recovered from the petitioner.

5. *Per contra*, learned State counsel has filed status report by way of affidavit of Vipin Kumar Ahlawat, Assistant Commissioner of

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Police, Rai, Sonapat, which is taken on record and opposes the prayer made by learned counsel for the petitioner on the ground that the petitioner is accused of committing dacoity and he remained absconding and was declared proclaimed offender, 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 09 months and 16 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 33 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

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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. In view the discussion above, the present petition is allowed. Accordingly, without commenting upon the merits of the case, the petitioner – Pintu Singh is ordered to be released on regular bail during pendency of the trial, on his 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

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Whether speaking/reasoned: Yes/No

Whether reportable: Yes/No