



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 pre-planned 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 Activa 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 nominated as accused in the present case on the basis of disclosure statement made by co-accused Suresh Kumar @ Nimbu, who has been granted concession of regular bail by this Court vide order dated 28.01.2025 passed in CRM-M-3681-2025 and another co-accused Jasbir @ Jassu was also granted concession of regular bail by this Court on 24.01.2025 in CRM-M-2851-2025. It is further submitted that there are other four co-accused also, who have been released on regular bail by this Court. The petitioner is not named in the FIR (supra) and he fairly submits that although petitioner is involved in 02 more cases but he is on bail in both the cases. The

petitioner is behind the bar since 30.04.2024.

4. *Per contra*, learned State counsel opposes the prayer of the petitioner and upon instructions from ASI Amrit Lal submits that the identity of the petitioner has been duly established as the test identification parade was conducted by the investigating agency and his complicity is also proved based on the CCTV footage obtained from the alleged place of occurrence and the petitioner is a habitual offender and he is also involved in other cases.

5. 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.”*

6. Having heard learned counsel for the parties and after perusing the record of the case, it transpires that the petitioner is behind the bar since 30.04.2024. 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. 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.

7. 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.

8. 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 namely Vishal 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.

9. 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

07.02.2025

Parveen kumar

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