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not present at the spot and there is no other corroborative material, either forensic or otherwise, to prove the identification of the petitioner as one of the assailants. Surprisingly, no place of incident is mentioned in the FIR (*supra*). The petitioner has been implicated in the present case only to show the successful solving of the pending cases. No independent witness was joined at the time of alleged recovery. He further submits that the petitioner has suffered incarceration of more than 10 months.

The learned State counsel has filed custody certificate as well as reply in the Court today which are taken on record and per contra, opposes the grant of regular bail to the petitioner on the ground that the petitioner is involved in one more case and the offence under Section 112 of BNS has been added later on, on 04.11.2024. He further submits that the petitioner is part of a gang who has committed large scale thefts of vehicles and 16 stolen motorcycles have been recovered from the petitioner and other accused persons, as such, the petitioner is not entitled to any relief.

Learned counsel for the petitioner submits that the petitioner was not aware of the fact that offence under Section 112 of BNS has been added during investigation, as such, prayer is made for addition of the said offence.

In view of the above, the prayer made by counsel for the petitioner for addition of an offence under Section 112 of BNS is allowed and Registry is directed to carry out necessary corrections.

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.”*

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 11.09.2024. Investigation is complete. The final report under Section 173 Cr.P.C. was presented before the concerned Court and trial of the case has not made much progress as only 02 out of 22 prosecution witnesses have been examined so far and one has given up. 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.

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.

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-Gurpreet Singh @ Gori, is ordered to be released on



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regular bail during trial on his furnishing bail bonds/surety bonds to the satisfaction of Illaqa Magistrate/Trial Court.

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**

**14.07.2025**

*Neha*

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