



242 **IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

**CRM-M-14529-2025
Date of decision: 21.03.2025**

SOMBIR

...PETITIONER

V/S

STATE OF HARYANA

...RESPONDENT

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Ms. Shivani Jaglan, Advocate
for the petitioner.

Mr. Harkesh Kumar, AAG, Haryana.

HARPREET SINGH BRAR, J. (ORAL)

1. This is the first petition filed under Section 483 of Bharatiya Nagarik Suraksha Sanhita (BNSS) for grant of regular bail to the petitioner in case bearing FIR No.49 dated 16.02.2024 under Sections 392/395/397/427/506 of IPC, 1860 and Section 25 of the Arms Act, 1959 registered at Police Station Israna, District Panipat (Annexure P-1).

2. Brief facts of the case are that on 15.02.2024, complainant Ravinder Kumar son of Randhir Singh came in the Police Station, Israna and moved a complaint stating therein on 15.02.2024 at about 03.30 P.M., one ALTO Car bearing registration No.HR-11D-2504 came from Samalkha side for taking petrol in which three boys were sitting. They stated to salesman Ankush son of Surender, resident of village Mandi to fill the tank of car. The salesman filled the petrol of Rs.2,399/- and after that salesman gave the key of ALTO Car to driver and asked for money. They shown the pistol and put the salesman 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 letters. Out of them, two boys came out along with 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 showed the pistol on air and they broken the mirror of Mahendra Pick-Up and Activa which were standing on petrol pump. 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 was not present along with other assailants at the time of incident as he was in another vehicle, waiting outside the patrol pump. She submits that similarly situated, six co-accused have already been granted concession of regular bail by this Court. She further submits that the petitioner is behind the bars since 19.04.2024.

4. Learned State counsel produces the custody certificate of the petitioner, which is take on record and *per contra*, opposes the prayer of the petitioner on the ground that the petitioner has played an active role in the alleged incident and one country-made pistol was recovered pursuant to his



disclosure statement. Further, the petitioner is a habitual offender as he involved in five more 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 19.04.2024. 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 as out of 31 witnesses cited by the prosecution, none has been examined so far. 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 of 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-Sombir is ordered to be released on regular bail during the pendency of the trial on 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.

March 21, 2025
manisha

(HARPREET SINGH BRAR)
JUDGE

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