

**CRM-M-49344-2024 (O&M)****1****208 IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH****CRM-M-49344-2024 (O&M)
Date of Decision: 27.02.2025****SARABJIT SINGH @ SONU CYLINDER****...Petitioner****Versus****STATE OF PUNJAB****...Respondent****CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR****Present: Mr. Vipul Aggarwal, Advocate
for the petitioner.****Mr. Sandeep Kumar, DAG Punjab***********Harpreet Singh Brar, J. (Oral)**

1. This is the first petition filed under Section 483 (wrongly mentioned as 449) of Bhartiya Nagrik Suraksha Sanhita, 2023 seeking grant of regular bail to the petitioner in case bearing FIR No. 184 dated 11.09.2023 registered under Sections 397(B)(2), 34 of Indian Penal Code and Sections 25, 54 of Arms Act (Section 25, 54 of Arms Act deleted later on) at Police Station Civil Lines, District Amritsar.

2. As per allegations, complainant Rajesh Kumar has been doing job in CMS Info System Limited from the year 2012. For the last about 4/5 years, complainant used to collect cash from different places in the city and such amount was being deposited by him in bank. On 11.09.2023, at about 10:00 a.m., complainant started from his house on his Activa Scooter bearing registration no. PB-02-8319 to collect cash. Firstly, he visited DHFL Parmerica Life Insurance Company, Mall Road, Amritsar and collected amount of Rs.4,800/-. Then he visited Tata Motors, Mall Road, HDB Fiance Company, Red Tape showroom, Feb India showroom, Jain Amar showroom, ASG Eye Hospital, TRENT, ZUDIO showroom and he recovered amount of Rs.6,710/-,



Rs.1,23,549/-, Rs.1,51,720/-, Rs.1,55,714/-, Rs.42,300/-, Rs.46,350/- and Rs.4,58,411/- respectively from such places and in that way he collected total amount of Rs.9,89,554/- and he was going to deposit the said amount at HDFC Bank at Majitha Road, Amritsar. When he reached near Hair Saloon Corporate, Joshi Colony, two persons came on Activa Scooty. Such persons struck their Activa Scooty with the Activa Scooter of complainant. Complainant dropped his Activa Scooter in front of hair saloon and he tried to enter that hair saloon. However, pillion rider of Activa Scooty came down and caught hold of complainant and he was dragged by that person. That person was trying to snatch the bag from the complainant. Complainant resisted to that. That person had taken out pistol from his dub and he gave blow with the handle of that pistol at the glass of helmet of complainant and blow struck at the left eye of complainant. Another person also came and they both snatched the bag from complainant and fled away. Case was accordingly registered against unknown persons.

3. Learned counsel for the petitioner *inter alia* contends that petitioner is not named in the FIR(supra) and as per the case set up by the prosecution, it is Suraj and Malkit Singh, who had committed the alleged offence and the only role attributed to the petitioner is that he planned the alleged snatching and contacted other co-accused for executing the said incident by offering them share in the snatched amount and instead of going himself, he cleverly sent co-accused Suraj and Malkit Singh to robe Rajesh Kumar-complainant. Further the petitioner has been nominated on the basis of disclosure statement suffered co-accused in judicial custody, which has no evidentiary value in the eyes of law. Moreover, the petitioner is behind the bars since 19.10.2023 and till day out of total 19 prosecution witnesses only one has been examined.



4. Learned State counsel filed the custody certificate, which is taken on record and *per contra* opposes the prayer made by learned counsel for the petitioner on the ground that he is master mind of the robbery committed upon the complainant and he is habitual offender involved in 06 more cases. However, he could not controvert the fact that out of total 19 prosecution witnesses, only 01 has been examined till date.

5. 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 23.10.2023 i.e. for a period of 01 year 04 months and 02 days as on 25.02.2025. In view of the ratio of law laid down by Hon'ble Supreme Court in **Prabhakar Tiwari Vs. State of UP and Anr.** 2020(1) RCR (Criminal) 831 and **Maulana Mohd. Amir Rashadi Vs. State of U.P. and Others** 2012(2) SCC 382, the involvement of accused in other criminal cases cannot be the sole ground to deny him the concession of bail. The final report under Section 173 Cr.P.C. has been presented before the concerned Court and subsequently, charges were framed. Currently, the trial is at the stage of prosecution witness and out of 19 PWs, only 01 has been examined till date. Further, the culpability, if any, would be determined at the time of final disposal of the case 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 conclusion of trial in the near future, would be violative of his rights under Article 21 of the Constitution of India.

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 under-trial 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. In view of the above and without commenting upon the merits of the case, the present petition is allowed and the petitioner-Sarabjit Singh @ Sonu Cylinder is ordered to be released on regular bail, subject to his furnishing bail bonds/surety bonds to the satisfaction of CJM/Duty Magistrate concerned.

7. 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

27.02.2025

Ajay Goswami

<i>Whether speaking/reasoned</i>	<i>Yes/No</i>
<i>Whether Reportable</i>	<i>Yes/No</i>