

CRM-M-62683-2023 (O&M) 1

214 IN THE HIGH COURT OF PUNJAB AND HARYANA
CHANDIGARH

CRM-M-62683-2023 (O&M)

Date of Decision: 18.12.2023

MINTU @ BINTU

...Petitioner

V/S

STATE OF HARYANA

...Respondent

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Mr. Sahil Choudhary, Advocate
for the petitioner.

Ms. Geeta Sharma, DAG Haryana.

HARPREET SINGH BRAR J. (Oral)

1. This is the first petition under Section 439 of Cr.P.C. seeking grant of regular bail to the petitioner in the case bearing FIR No. 178 dated 01.08.2023 registered under Sections 148, 149, 323, 325, 307, 506 of Indian Penal Code and Section 25 of Arms Act at Police Station Radaur, District Yamuna Nagar.

2. FIR in the present case was registered on the statement of complainant Krishan, son of Subhash Chand, resident of Balmiki Basti, Ward No.4, Radaur, who reported to the police to the effect that on 01.08.2023, his brother namely Mohit was returning home from Namdev Chowk on foot. When he reached Namdev Chowk, Lucky son of Gaurav, Amit alias Tallu son of Mahinder, Vansh son of Kripal, Rishipal son of Balbir, Deepak son of Jai Bhagwan and their accomplices arrived, armed with dandas, swords and opened attack causing injuries on his head and legs. He was standing on the shop. When he raised cries, those persons fled on their motorcycles with their weapons threatening him and his brother with death. The assailants attacked his brother with intention to kill him. Legal action against the assailants was prayed for. He further stated that Jagdeep son of Bhupender, Raman Kumar son of Nathi Ram,

residents of Radaur also witnessed the incident, which occurred at about 12.00 p.m. On this complaint, medico legal report and opinion of the doctor, case under Sections 148, 149, 323, 325, 307, 506 IPC was registered and investigation was commenced.

3. Learned counsel for the petitioner inter alia contends that the petitioner has not been named in the FIR and he has been involved in the present case on the basis of disclosure statement of co-accused while he was in police custody, which is hit by Section 26 of the Indian Evidence Act. No overt act or injury has been attributed to the petitioner and all the injuries have been attributed to the co-accused namely Lovish @ Lucky, Amit @ Tallu and Vimal Kumar. The role of the petitioner was only of driving the motor cycle.

4. Per contra, learned State counsel opposes the prayer for grant of bail to the petitioner on the ground that the victim has suffered seven injuries and the co-accused in his disclosure statement has stated that the petitioner along with the co-accused have inflicted injuries upon the complainant.

5. Having heard the learned counsel for the parties and after perusing the record, it transpires that the petitioner is in custody since 21.08.2023. Investigation of the case is complete and Investigating Agency has submitted the final report under Section 173 Cr.P.C. on 04.10.2023 and the trial of the case has not made any progress as none out of the 17 prosecution witnesses have been examined so far. Culpability, if any, would be determined at the time of trial.

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. In view of the above, petitioner- Mintu @ Bintu is ordered to released on regular bail subject to his furnishing requisite bail bonds/surety bonds to the satisfaction of the concerned trial Court/Chief Judicial Magistrate/Duty Magistrate.
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.
8. The petition is allowed.

18.12.2023
Ajay Goswami

(HARPREET SINGH BRAR)
JUDGE

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