

CRM-M-1268-2024

215(2) IN THE HIGH COURT OF PUNJAB AND HARYANA
CHANDIGARH

CRM-M-1268-2024 (O&M)
Date of Decision: 18.01.2024

ATUL

...Petitioner

V/S

STATE OF HARYANA

...Respondent

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Mr. Ashish Grewal, 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 under Sections 148, 149, 323, 325, 307, 506 of Indian Penal Code and Section 25 of Arms Act registered at Police Station Radaur, Yamuna Nagar, 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 made by the co-accused while in police custody, which has no evidentiary value in the eyes of law. Similarly situated co-accused namely Mintu @ Bintu has already been granted the concession of regular bail by this Court vide order dated 18.12.2023 (Annexure P-3) passed in CRM-M-62683-2023.

4. Per contra, learned State counsel opposes the prayer of grant of regular bail to the petitioner on the ground that victim has suffered several injuries and the petitioner has been duly named in the present FIR by the co-accused, as such his involvement in the present case is fully established.

5. Having heard the learned counsel for the parties and after perusing the record, it transpires that case of the petitioner is at par with the co-accused Mintu @ Bintu, who has has been granted the concession of regular bail by this Court and the petitioner is behind the bars since 21.08.2023. Investigating Agency has concluded the

investigation and submitted the final report under Section 173 Cr.P.C. on 04.10.2023. The trial of the case has not made any progress as none out of 17 prosecution witnesses has 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, the present petition is allowed and petitioner- Atul is ordered to be 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.

18.01.2024
Ajay Goswami

(HARPREET SINGH BRAR)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes/No
Yes/No