

CRM-M-5643-2024
Date of decision: 08.02.2024

...PETITIONER

STATE OF PUNJAB

...RESPONDENT

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Mr. Vivek Singla, Advocate
for the petitioner.

Mr. Subhash Godara, Addl. A.G., Punjab.

HARPREET SINGH BRAR J. (ORAL)

This is the first petition that has been filed under Section 439 Cr.P.C. seeking regular bail in case bearing FIR No.120 dated 17.09.2022 registered under Sections 341, 323, 324, 506, 148, 149 of Indian Penal Code, Sections 307, 379-B IPC added vide DDR No.40 dated 06.10.2022, Section 325 IPC added vide DDR No.42 dated 08.09.2023 and Sections 427, 201 IPC added vide DDR No.50 at Police Station Jaito, District Faridkot (Annexure P-1).

2. The present FIR was registered on the statement of complainant Hardeep Singh son of Gurnaib Singh on the allegations that his shop was situated at main bus stand of village Bishnandi. On 15.09.2022, somewhere around 8.00 PM, after closing shop, he was returning to his house at village Ramgarh (Bhagtuana) on a motorcycle No. PB-03X-9460 make Apache TVS. Around 8.10 PM, when complainant reached near the brick-kiln of master, five persons encircled his motorcycle and started beating him. In the light of the motorcycle, complainant identified four assailants out of them, who belonged

to his village and they were Rajinder Singh @ Raja son of Baldev Singh, Manpreet Singh Mali son of Ram Khilari, Bittu son of Deepa Singh (petitioner herein) and Tej Singh son of Siya Ram, residents of Ramgarh (Bhagtuana) and one unknown person was also accompanied them. Rajinder Singh @ Raja gave *kappa* blow towards the complainant which hit him on his left elbow and the second blow given by petitioner hit him on the middle of his head. Then Rajinder Singh @ Raja gave third blow of *kappa* towards the complainant which hit him on his right elbow. Then Manpreet Singh @ Mali gave *kappa* blow towards complainant which hit him on his right knee and the second blow given by Manpreet Singh @ Mali hit him on the joint of right elbow. Then Manpreet Singh @ Mali gave third blow of *kappa* towards the complainant which hit him on his chest and abdomen. Then Bittu (petitioner) gave baseball blow towards the complainant which hit him on the backside of his chest and abdomen. Another blow given by Bittu (petitioner) hit him on his left knee and the third blow given by Bittu (petitioner) towards complainant hit him on his left leg. Then Tej Singh gave baseball blow towards the complainant which hit him on the backside of his right arm, another blow given by Tej Singh hit him on the right side of his neck. The unknown person also gave danda blow towards the complainant which hit him just above his right wrist, another blow given by him hit the complainant below his right knee. Said assailants also snatched complainant's laptop, currency notes of Rs.26,500/-, shop keys and finger print machine and after criminally intimidating him, fled from the spot with their respective weapon. The motive behind the occurrence was that partition proceedings of joint land were pending between complainant and the assailants and the assailants were pressurizing the complainant to withdraw the said proceedings and due to that grudge, the assailants inflicted injuries upon the complainant.

3. Learned counsel for the petitioner *inter alia* contends that similarly situated co-accused namely Tej Singh has been granted the concession of ad interim anticipatory bail by this Court vide order dated 05.01.2024 passed by this Court in case bearing CRM-M No.61531 of 2023 (Annexure P-5) and another co-accused namely Rajinder Singh @ Raja was also granted the concession of regular bail by this Court vide order dated 25.01.2024 in case bearing CRM-M No.3114 of 2024 (Annexure P-6) and the main accused is Manpreet Singh and no offence under Section 307 of IPC is made out in the absence of any specific opinion with regard to the nature of injuries being dangerous to life. The petitioner is not involved in any other case.

4. Per contra, the learned State counsel, on instructions from ASI Gurmukh Singh, opposes the grant of regular bail to the petitioner on the ground that petitioner has been specifically named in the FIR and he, being member of unlawful assembly, has actively participated in inflicting injuries on the person of the complainant.

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 records of the case, it transpires that the petitioner is behind the bars since 27.09.2023. The investigating agency has already concluded the investigation and submitted the final report under Section 173 Cr.P.C. on 23.12.2023 and there are total 25 prosecution witnesses. Trial of the case is likely to take long time to conclude. Culpability, if any, would be determined at the time of the trial. It would be a moot point to be determined by the trial Court as to whether the offence under Section 307 IPC is made out or not. No useful purpose would be served by further detention of the accused-petitioner.
7. Keeping in view the facts and circumstances of the case, the present petition is allowed without commenting upon the merits of the case lest it may prejudice the outcome of the trial and the petitioner-Dev Chand @ Bittu is ordered to be released on regular bail during trial on his furnishing bail bonds/surety bonds to the satisfaction of Illaqa Magistrate/Trial Court.
8. 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.

February 08, 2024
manisha

(HARPREET SINGH BRAR)
JUDGE

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