

CRM-M-5770-2024
Date of decision: 08.02.2024

...PETITIONER

V/S

...RESPONDENT

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Mr. Anant Bir Singh Sidhu, Advocate
for the petitioner.

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

HARPREET SINGH BRAR J. (ORAL)

This is the first petition filed under Section 439 Cr.P.C. seeking regular bail in case bearing FIR No.41 dated 20.04.2023 registered under Sections 323/307/34 of Indian Penal Code read with Section 27/54/59 of Arms Act at Police Station Rangar Nangal, Tehsil Batala, District Gurdaspur.

2. Brief facts of the present case are that on 18.04.2023, Sarwan Singh i.e. son of the complainant and Fakir Singh-complainant were going towards their tubewell and the petitioner-Joga Singh was coming from the opposite side along with his pet dog and when they came parallel to the petitioner, the dog barked. On which, Sarwan Singh rebuked the dog and the petitioner got angry and started abusing Sarwan Singh. An altercation took place between both of them. The complainant further alleged that when he reached at the spot and tried to pacify the petitioner, he gave stick blows on the head, waist and chin of Sarwan Singh. On hearing noises, Karanbir Singh (son of Joga Singh), Paramjit Kaur (wife of Joga Singh) both armed with *dang* and

Ramandeep Kaur (daughter-in-law of Joga Singh) empty handed came at the

spot. Daughter-in-law of the petitioner raised *lalkara* on which, Karanbir Singh gave two dang blows on the shin of left leg and left thigh of Sarwan Singh. Paramjit Kaur gave two dang blows on right leg of Sarwan Singh. The complainant further alleged that when Sarwan Singh fell down, Karanbir Singh gave two *dang* blows to him, which fell on his head and right toe.

3. Learned counsel for the petitioner *inter alia* contends that it is a case of version and cross-version. The petitioner also received injuries at the hands of the complainant party and he was medico-legally examined by the medical officer at Government Hospital, Qadian but police has not registered a cross-case against the complainant party and the entire family of the petitioner has been involved in the FIR, which includes his wife and daughter-in-law. The investigating agency has already concluded the investigation.

4. Per contra, the learned State counsel opposes the grant of regular bail to the petitioner on the grounds that the petitioner is the main accused and has inflicted injury which was declared dangerous to life. As such, his complicity is clearly established.

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 in custody since 25.08.2023 and the investigating agency has already concluded investigation and submitted the final report under Section 173 Cr.P.C. before the concerned Court on 11.11.2023. The trial of the case has not made much progress as out of 19 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 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-Joga Singh 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
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(HARPREET SINGH BRAR)
JUDGE

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