

CRM-M-8133-2024  
Date of decision: 21.02.2024

## Versus

State of Punjab ...Respondent

**CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR**

**Present:** Mr. Satvir Singh, Advocate  
for the petitioner.

Mr. Sandeep Kumar, DAG, Punjab.

**HARPREET SINGH BRAR, J. (ORAL)**

Present petition has been filed under Section 439 of Code of Criminal Procedure for grant of regular bail to the petitioner in case FIR No.78 dated 21.09.2017 registered under Sections 302, 34 of Indian Penal Code (Sections 148, 149 and 201 IPC added later on and Section 34 of IPC deleted later on) at Police Station Sadar Sunam, District Sangrur.

The FIR was registered on the statement of one Neelam Rani on the allegations that on 20.09.2017, her nephew Mukesh Kumar went away on his motor cycle bearing No.PB13Z-6865. At 6:00 o'clock, Mukesh Kumar informed the complainant on telephone that his friend Babandeep Singh has been released on bail and thereafter, he disconnected the phone and did not return. On 21.09.2017, one person namely Jaggi informed the complainant that Mukesh Kumar is lying unconscious near Sirhand drain. Upon this, the complainant rushed to the spot and found that her nephew Mukesh Kumar had died and he was having deep sharp edged injuries on his head.

Learned counsel for the petitioner *inter alia* contends that the petitioner is not named in the FIR and the Investigating Agency has prepared the untraced report and after a gap of more than five years on 01.11.2022, the supplementary statement was made by the brother-in-law of the deceased, Mukesh Kumar, but the same is based on *hearsay* evidence which has no value in the eyes of law. As per the case set up by the prosecution, the main accused is Gurdhian Singh @ Bholu, who has given the axe blow and due to the said injury inflicted by the co-accused, the deceased-Mukesh Kumar had died. He further submits that the petitioner has been nominated only on the basis of disclosure statement made by the co-accused-Gurdhian Singh @ Bholu. The petitioner has not been attributed any specific role in the disclosure statement also and similarly situated co-accused, namely, Hardeep Singh @ Kali has been granted the concession of regular bail by this Court vide order dated 05.01.2024 passed in CRM-M-64551-2023 titled as 'Hardeep Singh @ Kali Vs. State of Punjab' (Annexure P-4).

Per contra, the learned State counsel, on instructions from ASI Suresh Kumar, opposes the grant of regular bail to the petitioner on the ground that the petitioner is involved in a heinous crime and he is also involved in one more case under the Excise Act.

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.”*

Having heard the learned counsel for the parties and after perusing the record of the case, it transpires that the petitioner is behind the bars since 02.11.2022 and similarly situated co-accused, namely, Hardeep Singh @ Kali has been granted the concession of regular bail by this Court vide order dated 05.01.2024 passed in CRM-M-64551-2023 titled as 'Hardeep Singh @ Kali Vs. State of Punjab'. The investigating agency has already concluded the investigation and submitted the final report under Section 173 Cr.P.C. on 19.01.2023. Trial of the case has not made any progress yet as none out of 29 prosecution witnesses has been examined so far. Culpability, if any, would be determined at the time of the trial. No useful purpose would 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.

Keeping in view the law laid down by the Hon'ble Supreme Court of India in 'Prabhakar Tewari Vs. State of U.P. and another' 2020 (1) R.C.R.

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(Criminal 831) and 'Maulana Mohd. Amir Rashadi Vs. State of U.P. and Another', 2012 (2) SCC 382, the involvement of the petitioner in other cases would not be a ground to refuse grant of concession of regular bail.

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-Satvir Singh @ Mindi 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.

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

21.02.2024  
Neha

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