

CRM-M-11875-2024
Date of decision: 12.03.2024

LOVEPREET SINGH @ LABHA

...PETITIONER

V/S

STATE OF PUNJAB

...RESPONDENT

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Mr. Ankush Rampal, Advocate for the petitioner.

Mr. Sandeep Kumar, DAG, Punjab.

HARPREET SINGH BRAR J. (ORAL)

This is first petition filed under Section 439 of Code of Criminal Procedure praying for grant of concession of regular bail pending trial in case FIR No.17 dated 14.08.2023 registered under Sections 341/324/506/148/149 of Indian Penal Code (in Challan, Sections 307/326/323/324/506/34 IPC added later on) at Police Station GRP, District Fazilka.

2. The present FIR was lodged at the behest of injured Harpreet Singh, who was admitted in Civil Hospital, but later on, he was referred to Medical College, Faridkot and then to AIMS Hospital, Bathinda. After obtaining fitness of the injured from the concerned Medical Officer, the statement of complainant was recorded to the effect that on 13.08.2023, when he was waiting for trucks for loading purposes, then in the meantime, Billa, Pardeep, Lovepreet Singh @ Labha (petitioner herein) along with other 15/16 persons with muffled faces, armed with *kirpans*, *khanda*, rods and other sharp edged weapons, came there while raising '*lalkara*' that he be not spared today and encircled him and gave '*kirpan*' blow on his person and Pardeep @ Shooter gave a *khanda* blow, which hit on the right side of his eye; then Lovepreet Singh @ Labha (petitioner herein) gave a *kappa* blow on his left leg,

which hit above the ankle and they kept on giving kicks and fist blows to him along with their weapons as well. Afterwards, they ran away from the spot while threatening him. His relative Jagsir Singh and other labourers at the spot admitted him to Civil Hospital, Malout. The motive behind the occurrence was that one year ago, he had got some dispute with Lovepreet Singh @ Labha (petitioner herein) and Pardeep @ Shooter was his friend. Pardeep @ Shooter has given him threatening calls and had followed him twice/thrice.

3. Learned counsel for the petitioner *inter alia* contends that there is a delay of one day in lodging the FIR and the delay has been used to concoct a false story after due deliberation and the petitioner has been falsely implicated in the present case. The injury attributed to the petitioner is on the non-vital part i.e. left leg near ankle. The injury No.1, which was declared as dangerous to life, was attributed to co-accused, namely, Gaurav. It is further contended that all the injuries suffered by the complainant party, are on non-vital parts. As such, invocation of offence under Section 307 IPC would be debatable. The petitioner is behind the bars since 27.09.2023.

4. Per contra, learned State counsel opposes the grant of regular bail to the petitioner on the ground that the petitioner has actively participated in the alleged incident and his complicity is clearly established and weapon of offence used in inflicting injuries on the injured has also been recovered from the possession of the petitioner.

5. Having heard learned counsel for the parties and after perusing the record of the case with their able assistance, it transpires that the petitioner is behind the bars since 27.09.2023 and he is not involved in any other case. The trial of the case has not made much progress as out of 16 witnesses cited by the prosecution, none has been examined so far. Further incarceration of the petitioner, without there being the prospect of the conclusion of the trial, in the

near future, would be violative of his rights under Article 21 of the Constitution of India. Culpability, if any, would be determined at the time of the trial.

6. 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.”

7. In view of the above, the present petition is allowed and the petitioner-Lovepreet Singh @ Labha 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.

March 12, 2024

manisha

(HARPREET SINGH BRAR)
JUDGE

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