

CRM-M-34749-2023 (O&M)
Date of Decision: 27.02.2024

...Petitioner

V/S

...Respondent

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Mr. Gursimran Singh Madaan, Advocate
for the petitioner.

Mr. Sandeep Kumar, DAG Punjab.

HARPREET SINGH BRAR J. (Oral)

1. This is the first petition filed under Section 439 of Cr.P.C. seeking grant of regular bail to the petitioner in the case bearing FIR No. 278 dated 27.09.2022 registered under Sections 323, 324, 341, 148, 149 and 506 of Indian Penal Code at Police Station Rama Mandi, District Jalandhar.

2. The present FIR was lodged on the allegations that on 21.09.2022, at around 12:30 P.M, complainant Jasjit Singh along with his friend Sunil Kumar were going to Guru Nanak Pura Market, Jalandhar on a motorcycle to meet their friend Balwinder Singh. When complainant and his friend Sunil Kumar were in a street near Gurudwara Ravidass Maharaj, Chuggitti, accused Beeru (petitioner herein) was sitting on a motorcycle. Deepanshu and Aman Mota were standing beside him. On seeing the aforesaid assailants, complainant got perturbed and stopped his motorcycle. In the mean time, the petitioner took out a *datar* from his "Dubb", upon which complainant ran towards his back. Four motorcycles with three youths, each on board attacked on the complainant. Deepanshu gave a brick blow, which hit on the back of complainant Jasjit Singh. Consequently, complainant fell down. Thereafter, the petitioner gave three *datar* blows towards the head of

complainant, but when complainant raised his right hand, the said blows landed upon the fingers of right hand of complainant; Deepanshu gave a 'khanda' blow upon the right leg of complainant; again Deepanshu gave blow on the eyebrow of right eye of complainant; Aman Mota gave a 'khanda' blow on the head of Sunil Kumar. Thereafter, the petitioner proclaimed to kill the complainant. Thereafter, Sunil Kumar raised alarm, upon which accused fled away from the place of occurrence with their respective weapons.

3. Mr. Gursimran Singh Madaan, Advocate has put in appearance on behalf of the petitioner and filed his power of attorney having No-objection from the previous counsel. Same is taken on record. Learned counsel for the petitioner *inter alia* contends that out of 11 injuries suffered by the complainant, 10 have been declared as simple in nature and only one injury i.e. injury on the ring finger of the right hand (injury No. 5), has been declared as grievous one. The petitioner is behind the bars since 06.06.2023 and he is not involved in any other case.

4. Per contra, learned State counsel opposes the prayer for grant of regular bail to the petitioner on the ground that he is main accused and the grievous injury suffered by the complainant is specifically attributed to him.

5. Having heard learned counsel for the parties and after perusing the record of the case, it transpires that petitioner has been in custody for the last 08 months and 24 days as on 26.02.2024 and he is not involved in any other case. Investigation of the case has been completed and final report under Section 173 of Cr.P.C. has been submitted before the Court concerned on 14.08.2023. Trial of the case is progressing at snail's pace as out of 14 cited prosecution witnesses, none has been examined so far. So

further incarceration of the petitioner without there being the prospect of the conclusion of the trial in the near future, would be violative of Article 21 of the Constitution of India. Culpability, if any, would be determined at the time of the 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. Accordingly, the present petition is allowed. The petitioner-Beeru is ordered to be released on regular bail, subject to his furnishing bail/surety bonds to the satisfaction of CJM/Duty Magistrate concerned.
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.

27.02.2024

Ajay Goswami

(HARPREET SINGH BRAR)

JUDGE

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