

209

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M-34829-2024 (O&M)
Date of decision: 31.07.2024

Abhishek @ Abhishek Bishnoi

... Petitioner

Vs.

State of Haryana

... Respondent

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

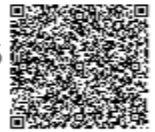
Present: Mr. Narinder S. Lucky, Advocate
for the petitioner.

Ms. Geeta Sharma, DAG, Haryana.

HARPREET SINGH BRAR, J. (ORAL)

1. The present petition has been filed under Section 439 of the Code of Criminal Procedure, 1973 (for short 'Cr.P.C.') seeking regular bail in case bearing FIR No.423 dated 12.12.2022 under Sections 147, 148, 149, 323, 379-B, 427, 452, 506 of the Indian Penal Code, 1860 (for short 'IPC') Sections 324, 325, 120-B, 302, 307 of IPC and Section 25 of Arms Act added later on), registered at Police Station Bhuna, District Fatehabad.
2. The present FIR was registered on the application given by the complainant Garib Das on the allegations that after the death of Ram Das, they are residing in his house. Co-accused Kanshi Ram came to kiryana shop

2024:PHHC:097315



of the complainant to purchase *biri* and his grandson, namely Shivam, was sitting in the street and he refused to give *mandal of biri* due to death in their house. On this, co-accused Kanshi Ram gave slap to Shivam and after some time, he called 30-40 people on the spot and they assaulted with bricks and stones and pelted stones and bricks in their house and they also gave knife blow in the stomach of Mukesh son of the complainant, gave brick blow on head of the Ravi and gave injuries on the finger of hand and thumb of Ramesh and broke down the entire domestic articles. They also took away gold chain of Mukesh. On making a phone call, the police reached at the spot and in front of the police, 1-2 accused caused damage and then the police called PCR two times. Thereafter, all the accused persons ran away from the spot. The accused persons also gave beatings to the ladies and they also suffered injuries. The accused persons also threatened to kill the complainant side.

3. Learned counsel for the petitioner, *inter alia*, contends that the petitioner was not named in FIR (*supra*) and he was implicated on the basis of disclosure statement made by co-accused namely Virender @ Bijender Pal @ Kaku. Admittedly, fatal injury on the body of the deceased is attributed to one Sandeep @ Sunny @ Bachi and similarly situated co-accused namely Deepak @ Lalua, whose name is mentioned in the FIR, has been granted regular bail by this Court vide order dated 18.04.2024 passed in CRM-M-17509-2024. Other co-accused namely Ram Niwas, Sanjay, Vakil @ Gokal,

2024:PHHC:097315



Sahil @ Pohla, Mangal, Pintu and Suresh have already been granted the concession of bail by this Court. Learned counsel for the petitioner further relies upon the order dated 08.05.2024 passed in CRM-M-19055-2024, vide which co-accused Monu Singh @ Kashi @ Monu has been granted regular bail.

4. *Per contra*, learned State counsel produces the custody certificate dated 25.07.2024 of the petitioner in the Court today, which is taken on record. However, she could not controvert the fact that aforementioned co-accused of the petitioner have already been released on regular bail.

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 bars since 16.03.2024; he is not involved in any other case and his similarly situated co-accused have already been granted the concession of regular bail by this Court and the trial of the case will take some time in its conclusion. The culpability, if any, would be determined at the time of trial. 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.

6. A two Judge Bench of the Hon'ble Supreme Court in ***Satender Kumar Antil Vs. CBI, (2022) 10 SCC 51***, with respect to prevailing conditions of undertrial prisoner in India has observed as under: -

2024:PHHC:097315



“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 the above, present petition is allowed. Thus, without commenting upon the merits of the case lest it may prejudice the outcome of the trial, petitioner Abhishek @ Abhishek Bishnoi is ordered to be released on regular bail during trial on his furnishing bail bonds/surety bonds to the satisfaction of learned Illaqa Magistrate/trial Court concerned.

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.

[HARPREET SINGH BRAR]
JUDGE

31.07.2024
vishnu

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No