

**CRM-M-40693-2023**  
**Date of decision: 08.02.2024**

**...PETITIONER**

V/S

## ...RESPONDENT

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

Present: Mr. Nitin Narula, Advocate for the petitioner.

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

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

This is the second petition filed under Section 439 Cr.P.C. seeking regular bail in case bearing FIR No.0055 dated 25.04.2018 registered under Sections 307, 353, 186, 148, 149 of Indian Penal Code at Police Station Ajnala, District Amritsar.

2. The present FIR was lodged on the allegations that police party, in compliance of the order passed by learned Additional Sessions Judge-cum-Presiding Officer, Waqf Tribunal, Amritsar had gone to handover the possession of land to one Ramesh Kumar and petitioner along with co-accused came at the spot on a tractor and another co-accused and petitioner were armed with *daang* and sticks. Co-accused Mohan Singh raised *lalkara* that police party be run over by the tractor, upon which, co-accused Gurdeep Singh, with intention to kill the police party, drove the tractor towards them, however, the police party escaped by running away.

3. Learned counsel for the petitioner *inter alia* contends that no specific role or overt act has been attributed to the petitioner, except that he

was present at the spot and moreover, co-accused Mohan Singh and Gurdeep Singh, who have been attributed the specific role, were declared innocent and petitioner has no connection with the land in dispute. Petitioner has suffered the incarceration for more than 01 year 06 months.

4. Per contra, learned State counsel has produced short reply by way of an affidavit dated 08.02.2024 and custody certificate, which are taken on record and opposes the grant of regular bail to the petitioner on the ground that he is involved in 04 more cases and is a habitual offender and in this case also, after obtaining bail from this Court, he remained absent and was declared proclaimed offender by the trial Court. Thereafter, he was arrested in some other case and he was produced by way of production warrants in this case, however, learned State counsel could not controvert the fact that it is a case of no injury and the petitioner is on bail in all other cases.

5. Having heard learned counsel for the parties and after perusing the records of the case, it transpires that the petitioner has undergone a custody of 01 year, 06 months and 13 days as on 07.02.2024 as per custody certificate. The investigating agency has already concluded the investigation and presented the challan. The trial of the case has not made much progress as out of 08 witnesses cited by the prosecution, only 03 witnesses have 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.

6. 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. (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.

7. In view the above, the present petition is allowed. Thus, without commenting upon the merits of the case lest it may prejudice the outcome of the trial, the petitioner- Harmanbir Singh @ Harman 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

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