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**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

CRM-M-37287-2024

Date of decision: 08.08.2024

Kuldeep Kumar @ Shunty

....Petitioner

Versus

State of Haryana

...Respondent

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR**Present:** Mr. Ojas Bansal, Advocate
for the petitioner.

Mr. Vikas Bhardwaj, AAG, Haryana.

HARPREET SINGH BRAR, J. (ORAL)

The present petition has been filed under Section 483 of Bharatiya
Nagarik Suraksha Sanhita, 2023 seeking regular bail in case bearing FIR
No.457 dated 18.12.2023 under Sections 354/506/509 of IPC (Sections 307/427
of IPC added later on) registered at Police Station Sadar Pehowa, District
Kurukshetra, Haryana.

The FIR (*supra*) was lodged on the statement of the complainant
by alleging that on 07.12.2023 at about 12:30 P.M., the accused/petitioner
brought his tractor near a shop situated in front of the house of the complainant
and started hurling abuses at her and her family members and when she opened
gate of her house, he stopped his tractor and started doing obscene gestures
towards her. It is further alleged that when the complainant came outside, the
accused/petitioner attempted to run her over the tractor. The tractor also broke
the items of the shop, a scooty and a *neem* tree. He also threw brick bats upon
the complainant. Thereafter, the complainant dialled No.112 but till the time



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police reached there, the accused/petitioner ran away from the spot after threatening to kill her and her family members and thus, the instant FIR got registered.

Learned counsel for the petitioner *inter alia* contends that the FIR (*supra*) was registered after a delay of 11 days as the alleged incident took place on 07.12.2023, however, the FIR (*supra*) was registered on 18.12.2023. The delay in reporting the matter to the jurisdictional police authorities remained unexplained which creates doubt on the case set up by the prosecution. It is a case of no injury and Section 307 of IPC has been invoked only at the behest of the complainant to aggravate the offence and to make it a non-bailable case otherwise all other offences except Section 307, 354 of IPC are bailable in nature. Perusal of the case clearly indicates that no offence under Section 354 of IPC is made out. He further submits that the petitioner is behind the bars since 30.03.2024.

The learned State counsel has filed custody certificate in the Court today which is taken on record and per contra, opposes the grant of regular bail to the petitioner on the ground that for invoking offence under Section 307 of IPC, it is not necessary that the victim must suffer injuries and the intention of the accused can be inferred from the attending circumstances and allegations. In the present case, the petitioner had tried to run the complainant under a tractor and thus, the petitioner is not entitled to the concession of regular bail, however, he could not controvert the fact that the petitioner is not involved in any other case.

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 learned counsel for the parties and after perusing the record of the case, it transpires that the petitioner is behind the bars since 31.03.2024 as per custody certificate. Investigation is complete. The final report under Section 173 Cr.P.C. was presented before the concerned Court and charges have been framed and trial of the case has not made much progress as out of 17 prosecution witnesses, none has 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.

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-Kuldeep Kumar @ Shunty 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

08.08.2024
Neha

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