

CRM-M-40711-2024
Date of decision: 14.10.2024

...PETITIONER

STATE OF HARYANA

...RESPONDENT

Present: Mr. Mohit, Advocate for the petitioner.

Ms. Geeta Sharma, DAG, Haryana.

HARPREET SINGH BRAR, J. (ORAL)

1. The present petition has been filed under Section 483 of BNSS 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 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 has been involved in this case on the basis of disclosure statement suffered by co-accused, namely, Ram Niwas, while being in police custody, which has no evidentiary value in the eyes of law. Admittedly, fatal injury on the body of the deceased is attributed to one Sandeep @ Sunny @ Bachi and the case of the petitioner is at par with co-accused namely, Abhishek *alias* Abhishek Bishnoi, who was granted the relief of regular bail by this Court vide order dated 31.07.2024 passed in case bearing CRM-M No.34829 of 2024 (Annexure P-2) and other co-accused Ram Niwas namely, Ram Niwas, Sanjay, Vakil @ Gokal, Sahil @ Pohla, Mangal, Pintu and Suresh have already been granted the concession of bail by this Court and the petitioner is involved in 02 more cases, however, he is on bail in both the cases.

4. *Per contra*, learned State counsel produces the status report dated 11.10.2024 by way of an affidavit of Sanjay Kumar, HPS, Deputy Superintendent of Police, Ratia, District Fatehabad (Haryana) on behalf of respondent-State in the Court today, which is taken on record. She submits that the petitioner was arrested on 26.02.2024 and *per contra*, opposes the prayer made by the petitioner on the ground that the petitioner has actively



participated in the alleged incident, however, she could not controvert the fact that similarly situated 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 26.02.2024; 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 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 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 Sandeep *alias* Monu 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 to be an expression of opinion by this Court lest it may prejudice the trial. The learned trial Court is directed to proceed with the trial on its own merits, strictly in accordance with law.

October 14, 2024
manisha

(HARPREET SINGH BRAR)
JUDGE

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