

211 IN THE HIGH COURT OF PUNJAB AND HARYANA
CHANDIGARH

CRM-M-57569-2023 (O&M)

Date of Decision: 30.01.2024

PRAVEEN @ BHOLI

...Petitioner

V/S

STATE OF HARYANA

...Respondent

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Mr. Sharad Choudhary, Advocate
for the petitioner.

Ms. Geeta Sharma, DAG Haryana.

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. 61 dated 14.03.2023 registered under Sections 307, 323, 325, 506 and 34 of Indian Penal Code and Section 25 of Arms Act at Police Station Dadri Sadar, Charkhi Dadri-Haryana.

2. Present FIR was lodged on the allegations that on 14.03.2023, at around 6.30 AM, when the complainant Azad was taking morning walk and he saw one car coming from the front side and found that the said car was being driven by Yogesh, who belongs to the village of the complainant. Yogesh, with the intention to kill the complainant, tried to ran the car over him by driving on the *kachha* portion of the road and on account of the impact, the complainant fell down on the ground. Yogesh along with 2-3 other unknown persons came out of the car with wooden sticks and they all started beating the complainant mercilessly. On account of injuries, the complainant became unconscious and the

assailants left the spot presuming that the complainant had died. The entire occurrence was witnessed by his brother Mahipal, who shifted him to the hospital.

3. Learned counsel for the petitioner *inter alia* contends that the petitioner is not named in the FIR and he has been nominated as the accused on the basis of supplementary statement suffered by the complainant-Azad, that too after three months of the occurrence. Learned counsel for the petitioner further relies upon the opinion of the doctor (Annexure P-3), in which categorical opinion was given that none of the injuries suffered by the complainant were dangerous to life, either individually or collectively. The complainant has suffered total 04 injuries, out of which, three are grievous and one is simple in nature and all the injuries are on the non-vital part of body of the complainant and as such offence under Section 307 of Indian Penal Code is not made out.

4. Per contra, learned State counsel opposes the prayer of grant of regular bail to the petitioner on the ground that he is a habitual offender and involved in 06 more cases. The complainant has duly identified the petitioner, who has actively participated in the alleged incident.

5. Having heard the learned counsel for the parties and after perusing the record of the case, it transpires that the petitioner is behind the bars since 25.07.2023. Culpability, if any, would be determined at the time of the trial. Trial of the case is likely to take long time to conclude as none out of 23 prosecution witnesses, 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. In view of the ratio of law laid down by Hon'ble Supreme Court in **Prabhakar Tiwari Vs. State of UP and Anr.** 2020(1) RCR (Criminal) 831 and **Maulana Mohd. Amir Rashadi Vs. State of U.P. and Others** 2012(2) SCC 382, the involvement of accused in other criminal cases cannot be the sole ground to deny him the concession of bail.

7. Thus, without commenting upon the merits of the case lest it may prejudice the outcome of the trial, the petitioner- Praveen @ Bholi 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.

30.01.2024
Ajay Goswami

(HARPREET SINGH BRAR)
JUDGE

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