

**213 IN THE HIGH COURT OF PUNJAB AND HARYANA
CHANDIGARH****CRM-M-57942-2023 (O&M)****Date of Decision: 29.01.2024****DHEERAJ KUMAR****...Petitioner****V/S****STATE OF HARYANA****...Respondent****CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR**

Present: Mr. Sanpreet Sandhu, 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. 330 dated 29.04.2023 registered under Sections 323, 324, 307, 506 of Indian Penal Code and Section 25 of Arms Act at Police Station City Yamuna Nagar, District Yamuna Nagar.

2. Present FIR was lodged by complainant Sanjeev Kumar on the allegations that on 29.04.2023 at about 4.00 PM, he along with his wife and two children were sleeping in the room. Meanwhile, Dheeraj (present petitioner) knocked the door. On this, he and his wife woke up. Dheeraj took out a knife '*chhura*' and pushed him on the bed. He gave two knife blows on his chest with intention to kill him. When he tried to save himself, knife hit on his both hands and left arm. His wife and children raised alarm for help. Their neighbourer namely Raj Kumar and Sonu came there and on seeing the persons gathered there, the accused fled from the spot. His wife and neighbourers took him to Civil

Hospital, Yamuna Nagar for treatment. On the basis of aforesaid statement, FIR under Sections 323, 324, 307, 506 of Indian Penal Code were registered. During investigation, the accused was arrested on 30.04.2023.

3. Learned counsel for the petitioner *inter alia* contends that the petitioner is behind the bars since 30.04.2023 and the trial of the case is progressing at snail's pace. Learned counsel for the petitioner further relies upon the opinion of the doctor (Annexure P-2) and submits that the complainant has suffered simple injuries and even the doctor has given a specific opinion that none of the injuries suffered by the complainant is dangerous to life. He further relies upon Medical legal report (Annexure P-3) of the complainant and contends that perusal of the Annexure P-3 clearly indicates that the nature and extent of injuries would show that no offence under Section 307 of IPC is made out against the petitioner and it would be a moot point to be determined during the course of the trial and the petitioner is not involved in any other case.

4. Per contra, learned State counsel opposes the prayer of grant of regular bail to the petitioner on the ground that intention of the petitioner is clearly established from the perusal of the FIR itself and the petitioner was armed with sharp edged weapon and he gave injury on the vital part of body of the complainant and as such offence under Section 307 of IPC is clearly made out against the petitioner. However, learned State counsel could not controvert the fact that the petitioner is not involved in any other case.

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 30.04.2023. The investigation of the case is complete and the final report under Section 173 Cr.P.C. was presented before the concerned Court on 15.07.2023. Out of 15 witnesses, as cited by the prosecution, only 01 has been examined so far. Therefore, conclusion of trial will take sufficient long time to conclude. 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. Thus, without commenting upon the merits of the case lest it may prejudice the outcome of the trial, the petitioner- Dheeraj Kumar 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.

7. 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.

29.01.2024
Ajay Goswami

(HARPREET SINGH BRAR)
JUDGE

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