

**CRM-M-442-2025 (O&M)****1****215****IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH****CRM-M-442-2025 (O&M)****Date of Decision: 22.05.2025****SHAHRUKH KHAN****...PETITIONER****Versus****STATE OF HARYANA****...RESPONDENT****CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR**

Present: Mr. Ravinder Hooda, Advocate
for the petitioner.

Mr. Vikas Bhardwaj, AAG Haryana.

Mr. Manoj Kaushik, Advocate for the complainant.

*********Harpreet Singh Brar, J. (Oral)**

1. This is the first petition filed under Section 483 of Bhartiya Nagrik Suraksha Sanhita, 2023 (for short 'BNSS') for grant of regular bail to the petitioner in case bearing FIR No. 369 dated 15.06.2024 registered under Sections 148, 149, 323, 427 of Indian Penal Code (Section 307 of IPC added later on) at Police Station Surajkund, District Faridabad.

2. FIR(supra) was registered on the statement of Complainant Harish Sharma who stated that he is resident of village Badkhal, District Faridabad and on 14.06.2024, at about 10-10:30 PM, his elder son namely Vivek was coming back after meeting his wife who was admitted in Asian Hospital. At some distance from their house, Safi, Shahrukh (petitioner herein), Moin, Sahid @ Kallu were sitting by putting chairs in the passage. When his son asked them to remove chair in order to take out car, then all of them started calling bad names to his son and they refused to remove the chair, upon this, his son made a call to the complainant and told everything. Thereafter, complainant reached at the spot with his younger son namely Gaurav and saw that all the accused were abusing

**CRM-M-442-2025 (O&M)****2**

his son and were about to give beatings. He made to understand and took his son Vivek from there and asked younger son Gaurav to go to home. He was going with his son Vivek to move complaint against the accused before the police and in the meantime, he received phone call of his son Gaurav to the effect that all the accused had surrounded him and asked him to immediately come. He returned at the spot, then many persons had gathered at the spot. Complainant alighted from his car and his sons Gaurav and Vivek were following him after parking car and then accused Rukhsana, Sahira, Muskaan started throwing stones on our vehicles. Vivek was coming towards them in order to save his life, but Safi, Sahid, Shahrukh, Moin caught hold of him in the way and they were having sharp edged iron angles and baseball bats. Shahrukh inflicted injury with sharp edged iron angle on the head of his son Vivek with an intention to kill. Accused Moin lifted baseball bat in order to inflict injury on the head of Vivek and in order to escape, Vivek tried to stop the same with his left hand, due to which he received injury on his hand. Safi, Sahid made Vivek to fall down by giving leg and fist blows. Complainant tried to save him and then Sahid caught hold of his nephew namely Mannu Mayank and gave beatings to him and snatched gold chain weighing about 5 tolas from his neck. Sabila tried to give blow on the head by picking locking tile with rod with an intention to kill him, but he stopped the same with his hand and on getting opportunity, Sabila snatched away Rado watch from his hand. On the basis of aforesaid allegations, FIR(supra) was lodged.

3. Learned counsel for the petitioner *inter alia* contends that petitioner has been falsely implicated in the present case and the entire incident has been captured in a CCTV footage. In fact, the complainant were the aggressor party and the petitioner party had informed the jurisdictional Police authorities with



regard to the incident, however no action was taken on their complaint. Further by twisting the facts on the next day, the petitioner was nominated as accused in the FIR(supra). A perusal of the CCTV footage clearly indicate that petitioner is seen inflicting injury on the hand of the injured witness. Further, initially there was no opinion with regard to injuries being dangerous to life and subsequent opinion was procured from the medical board and petitioner is the first time offender and he is not involved in any other case. Further, the injury which has been declared as dangerous to life, is not attributed to the petitioner and the CCTV footage was produced by the petitioner before the Investigating Officer, but the same was not taken into consideration and petitioner would prove the same in his defence in accordance with law and similarly situated two co-accused have already been granted the concession of regular bail by the learned trial Court.

4. Learned State counsel has filed the custody certificate of the petitioner and *per contra* opposes the prayer for grant of regular bail to the petitioner on the ground that petitioner has actively participated in the alleged incident and injury No. 1 on the head of the victim was declared as dangerous to life. Further, the allegations against petitioner are of giving injuries with an iron angle on the head of the victim. As such, he is not entitled to grant of regular bail by this Court.

5. Having heard learned counsel for the parties and after perusing the record of the case, it transpires that the petitioner is behind the bars for the last 07 months and 29 days. Petitioner is not involved in any other case and trial of the case would take sufficient long time to conclude as out of total 17 prosecution witnesses, none has been examined so far. The culpability, if any,



CRM-M-442-2025 (O&M)

4

would be determined at the time of trial. No useful purpose shall be served by further detention of the accused/petitioner.

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 discussion above, the present petition is allowed. Accordingly, without commenting upon the merits of the case, the petitioner-Shahrukh Khan is ordered to be released on regular bail during pendency of the trial, on furnishing bail bonds/surety bonds to the satisfaction of Illaqa Magistrate/Trial Court/Duty Magistrate.

8. Nothing observed hereinabove shall be construed to be expression of an opinion by this Court on merits of the case. The learned Court below is directed to proceed with the matter on its own merits, lest it may prejudice the trial.

(HARPREET SINGH BRAR)
JUDGE

22.05.2025

Ajay Goswami

Whether speaking/reasoned
Whether reportable

Yes/No
Yes/No