



IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

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CRM-M No.2694 of 2025
Date of decision: 23.01.2025

Surinder Kaur
.....Petitioner
Versus
State of Punjab
.....Respondent

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Ms. Shabnam Mahajan, Advocate and
Mr. Gagandeep Singh, Advocate
for Mr. Shvetanshu Goel, Advocate
for the petitioner.

Mr. Sandeep Kumar, DAG, Punjab.

HARPREET SINGH BRAR J. (Oral)

1. Prayer in this petition filed under Section 483 of the BNSS, 2023, is for grant of regular bail to the petitioner in DDR No.27 dated 20.09.2024 registered in FIR No.67 dated 18.09.2024, under Sections 115(2), 126(2), 351(3), 194(2), 190, 191(3) read with Section 109 of BNS, 2023, at Police Station Daba, Ludhiana, District Ludhiana.
2. The brief facts of the case are that Ishmit Singh filed a cross-version complaint against Surinder Kaur (petitioner herein) Jagroop Singh, Harpreet Singh, Daljit Singh, and several unknown individuals, alleging assault due to a prior enmity linked to a motorcycle collision involving Daljit Singh. This incident led to a verbal altercation, which was settled with a compromise scheduled for 17.09.2024. On that date, Ishmit Singh and his associates arrived at Mohalla Fateh Singh

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Nagar, Ludhiana, where they were confronted by Jagroop Singh, his mother Surinder Kaur, brother Harpreet Singh, uncle Daljit Singh, and others. A violent altercation ensued, during which Surinder Kaur allegedly struck Ishmit Singh with a brick, and the complainant's group retaliated, resulting in the death of Daljit Singh @ Kaka.

3. Learned counsel for the petitioner *inter alia* contends that the petitioner is in custody since 22.10.2024 and it is a case of version and cross-version. He further submits that the FIR was registered on 18.09.2024, on the statement made by son of the petitioner and the cross-version was recorded after a delay of 02 days of the alleged incident i.e. on 20.09.2024 and the delay occurred in registration of the cross-version, in which the petitioner is one of the accused, creates a serious dent on the veracity of the allegations made against the present petitioner. He further submits that the complainant in the cross-case are the aggressors and one person from the side of the petitioner namely Daljeet Singh @ Kaka, had died in the alleged occurrence and the petitioner is a household lady aged about 68 years.

4. Learned counsel for the petitioner further submits that there are total 17 prosecution witnesses cited in the list of witnesses, out of which, none has been examined till date and the trial is likely to take long time in conclusion.

5. *Per contra*, learned State counsel opposes the prayer for bail to the petitioner on the ground that the petitioner has actively participated in the alleged incident and has given head injury upon the

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complainant in the cross-case and the petitioner is involved in as many as 05 more cases, however, he could not controvert the fact that out of 17 PWs, not even a single witness of the prosecution has been examined so far.

6. Having heard learned counsel for the parties and after perusing the record of the case, it transpires that the petitioner is behind the bars from the last 02 months and 29 days. Investigation is complete. The final report under Section 173 Cr.P.C. was presented before the concerned Court. Charges were framed and trial of the case has not made much progress. Out of 17 prosecution witnesses, none has been examined till date.

7. A two Judge Bench of Hon'ble Supreme Court in ***"Satender Kumar Antil vs. 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."

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8. Further the culpability, if any, would be determined at the time of trial and as such, no useful purpose will be served by further detention of the petitioner-accused. Keeping the petitioner in further detention without the prospect of the trial being concluded in the near future, would be violative of her rights under Article 21 of the Constitution of India.

9. Further keeping in view the law laid down by the Hon’ble Supreme Court of India in “*Prabhakar Tewari vs. State of U.P. and another*” 2020 (1) R.C.R. (Criminal 831) and “*Maulana Mohd. Amir Rashadi vs. State of U.P. and another*”, 2012 (2) SCC 382, the involvement of the petitioner in other cases would not be a ground to refuse grant of concession of regular bail.

10. In view the discussion above, the present petition is allowed. Accordingly, without commenting upon the merits of the case, the petitioner namely Surinder Kaur 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.

11. 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

23.01.2025

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Whether speaking/reasoned:
Whether reportable:

Yes/No
Yes/No