



**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

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**CRM-M No.1716 of 2025 (O&M)
Date of decision: 03.07.2025**

Mahabir Singh @ Poppy

....Petitioner

Versus

State of Punjab

....Respondent

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Mr. Parampreet Singh Paul, Advocate
for the petitioner.

Mr. Sandeep Kumar, DAG, Punjab.

HARPREET SINGH BRAR J. (Oral)

1. Prayer in this 5th petition filed under Section 439 of Cr.P.C. (now Section 483 of the BNSS, 2023), is for grant of regular bail to the petitioner in FIR No.115 dated 03.06.2022 registered under Sections 307, 323, 341, 506, 34 IPC (Section 325 IPC added later on) at Police Station Phase-I, District S.A.S. Nagar (Mohali). The 4th petition was dismissed as withdrawn on 22.08.2024.

2. Learned counsel for the petitioner submits that the new ground for filing this 5th petition is that one of the eye-witness of the alleged incident has not supported the case of the prosecution and the petitioner is in custody since 30.07.2022.

3. As per the prosecution version, the FIR (supra) was registered on the statement of Harbhajan Singh with the allegations that on 02.06.2022 at about 10:30 PM, he after doing work, was coming to

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his house. When he reached near gate of Khoka Market, Phase-1, Mohali and was purchasing fruits for his children from the fruit vendor, where alongside the rehri, Randhir Singh @ Poppy (petitioner herein) alongwith other persons, who were sitting on footpath were consuming liquor, who on seeing him started hurling filthy abuses, to whom he tried to stop. Randhir Singh @ Poppy took one iron rod from the rehri and started beating him. He gave five blows with rod, which hit him on his forehead, lip and below chin, backside and right thigh whereupon the complainant fell on the ground but he remained giving him rod blows. In the meantime, the brother of Randhir Singh namely Bhupinder Singh @ Bhindi came to the spot and then they both caused injuries to the complainant. Pushpinder Singh @ Bhola son of Dalip Singh also reached the spot who got him freed from their clutches and sent message to the house of the complainant. Thereafter, both the brothers after giving him threats went away from the spot. Lakhwinder Singh @ Lucky and Pushpinder Singh @ Bhola after arranging a vehicle, took Harbhajan Singh to Civil Hospital, Phase-6, Mohali, from where he was referred to PGI Chandigarh where he was under treatment. On the basis of this statement, the impugned FIR was registered.

4. Learned counsel for the petitioner *inter alia* contends that the petitioner has been falsely implicated in the FIR (supra). The petitioner was not named in the FIR (supra) and after a gap of one month, a supplementary statement of the complainant was recorded and he improved his version and submitted that the petitioner is the person



who has caused injuries to him and his real name is Mahavir Singh. Further, one of the eye-witness of the incident has been examined as PW-1 and he has not supported the case of the prosecution and the injured/complainant has also been examined as PW-2. He further submits that the petitioner has suffered the incarceration of almost 03 years. Admittedly, the petitioner was not earlier acquainted with the complainant and a scuffle took place between the parties on account of parking and the alleged incident has taken place at the spur of the moment. Although, the petitioner is involved in other cases, however, he is acquitted in all the cases except one.

5. Learned counsel for the petitioner further submits that there are total 13 prosecution witnesses cited in the list of witnesses, out of which, only 04 PWs have been examined till date and the trial is likely to take long time in conclusion. Further, it would be a moot point to be decided during the course of trial, as to whether the petitioner can be held liable for an offence under Section 307 IPC in the absence of any mens rea and also with regard to the knowledge of impact or severity of the injuries caused to the complainant/victim.

6. *Per contra*, learned State counsel has filed custody certificate as well as status report by way of affidavit of Prithvi Singh Chahal, Deputy Superintendent of Police, City-1, S.A.S. Nagar today in the Court which are taken on record and he opposes the prayer made by learned counsel for the petitioner on the ground that the petitioner is the main accused and he has given blow with a rod on the forehead of the



complainant and he suffered a fracture thereon, however, he could not controvert the fact that the petitioner is behind the bars since 30.07.2022 and only 04 PWs have been examined till date.

7. 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 years, 11 months and 01 day. 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 13 prosecution witnesses, 04 PWs have been examined so far.

8. 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

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be an impression that it is a police State as both are conceptually opposite to each other.”

9. 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 his rights under Article 21 of the Constitution of India.

10. In view the discussion above, the present petition is allowed. Accordingly, without commenting upon the merits of the case, the petitioner namely Mahabir Singh @ Poppy 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.

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

03.07.2025
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Whether speaking/reasoned:	Yes/No
Whether reportable:	Yes/No