

**CRM-M-5419-2025 (O&M)****1****106+221****IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH****CRM-M-5419-2025 (O&M)****Date of Decision: 27.05.2025****VINEET @ VINIT KUMAR****...PETITIONER****Versus****STATE OF HARYANA****...RESPONDENT****CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR**

Present: Mr. Matinder Brar, Advocate for

Mr. Akashdeep Singh, Advocate for the petitioner.

Mr. Vikas Bhardwaj, AAG Haryana.

Harpreet Singh Brar, J. (Oral)**CRM-15327-2025**

Allowed as prayed for and orders passed in various bail applications filed by the co-accused(s) of the petitioner, are taken on record as Annexures P-4 to P-8, subject to all just exceptions.

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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. 144 dated 27.02.2022 registered under Sections 307, 384, 34, 506 of Indian Penal Code and Section 25 of Arms Act (Sections 120-B, 387 of IPC and Section 27 of Arms Act added later on in the challan) at Police Station Shivaji Colony, Rohtak District Rohtak.

2. FIR(supra) was registered on the basis of complaint made by Rajender, who stated that he has been running a shop at Sunaria Chowk with the name Bikaner Misthan Bhandar. On 27.02.2022, while he was present at his shop, in the meantime at about 6.45 p.m., three young boys materialized there and inquired about the rate of Dhodha Burfi. Complainant apprised about the

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rate but they were reluctant to buy the Dhodha Burfi and returned back from the shop. After some time they again came on the shop. Thereafter, they raised the demand of Rs. 25 lacs. On showing the reluctance they intimidated the complainant. A young boy fished out the pistol from his pocket and opened fire on him which hit to the left hand of the complainant. All the culprits fled away from the spot. On the basis of aforesaid allegations, FIR(supra) was registered.

3. Learned counsel for the petitioner *inter alia* contends that petitioner is not named in the FIR and co-accused namely Happy has been granted the concession of regular bail by a Co-ordinate Bench of this Court vide order dated 21.07.2022 (Annexure P-4) passed in CRM-M-30311-2025 and another co-accused Deepak has also been granted the concession of regular bail by learned Additional Sessions Judge, Rohtak vide order dated 08.02.2022 (Annexure P-5). Learned counsel further submits that injury for which offence under Section 307 of IPC has been added, is on the non-vital part i.e. left hand of the complainant. Further, the petitioner has already suffered the incarceration of more than 03 years and 02 months and material witnesses have already been examined and star witness of the prosecution i.e. Rajinder (complainant) has already deposed before the learned trial Court as PW-2 and the complainant in his deposition has not supported the case of the prosecution and has been declared as hostile by learned Public Prosecutor. As such, there is no other evidence to connect the petitioner with the alleged incident.

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 is the main accused, who has fired the gun shot, which had hit on the left hand of the complainant and he is also involved in other cases as well. Thus, keeping in view his criminal antecedents,



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he is not entitled for grant of bail by this Court. However, he could not controvert the fact that petitioner has undergone incarceration of more than 03 years and 02 months and out of total 26 PWs, only 02 have been examined so far.

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 03 years 02 months and 10 days and trial of the case would take sufficient long time to conclude as out of total 26 prosecution witnesses, only 02 have been examined till date. The culpability, if any, 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 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

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382, the involvement of accused in other criminal cases cannot be the sole ground to deny him the concession of bail.

8. In view the discussion above, the present petition is allowed. Accordingly, without commenting upon the merits of the case, the petitioner-Vineet @ Vinit Kumar 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.

9. 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

27.05.2025*Ajay Goswami**Whether speaking/reasoned*
*Whether reportable**Yes/No*
Yes/No