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IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

CRM-M-3097-2025 (O&M)

Date of Decision: 29.04.2025

SAGAR

...PETITIONER

Versus

STATE OF PUNJAB

...RESPONDENT

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Mr. Vikasdeep Singh, Advocate
for the petitioner.

Mr. Sandeep Kumar, DAG Punjab.

Mr. Fatehjeet Singh, Advocate
for the complainant.

Harpreet Singh Brar, J. (Oral)

1. This is the second petition filed under Section 439 of Cr.P.C. seeking grant of regular bail to the petitioner in case bearing FIR No. 13 dated 03.05.2023 registered under Sections 307, 452, 506, 120-B, 323, 324 of Indian Penal Code and Sections 25, 54 and 59 of Arms Act, 1959 at Police Station Kabirpur (Ahlikalan) District Kapurthala.

2. FIR(supra) was registered on the statement of Udeek Chand who stated that he is married and doing the work of Milk and agriculture. On 03.05.2023 at about 9:00 AM complainant and his wife Geetu were present at home and his mother Geeta Rani was at the shop as per daily routine. Sagar son of Kulwant Singh @ Chartu (petitioner herein) resident of Village Bhago Budha came and started giving *kirch* blows upon his mother who was coming towards the *verandah* of the house and his mother fell in the verandah and hearing the noise complainant and his wife Geetu came in the courtyard. Then Sagar tried to give *Kirch* blows upon his wife and his wife fell down and complainant raised his left hand and caught the *kirch* with his left hand then

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Sagar pulled the *kirch*, which hit on his left little finger and palm due to which there was a lot of bleeding and Sagar took out a pistol from left side of his pants and tried to fire upon him with an intention to kill him and he caught hold the pistol with the right hand and during the scuffle Sagar gave one fire shot of the pistol which hit him upon his right thigh and the petals also hit on his left thigh and he raised an alarm of *Maar Ditta Maar Ditta* and seeing his brother Jagdish, Sagar after hitting the door ran away from the spot along with his kirch and pistol and while leaving gave threats that if complainant got saved then his family will be killed. On the basis of aforesaid allegations, FIR(supra) was registered.

3. Learned counsel *inter alia* contends that this is the second petition seeking grant of regular bail to the petitioner and the first petition was dismissed as withdrawn on 29.07.2024. This second petition has been filed on account of long incarceration of the petitioner as the petitioner has undergone almost 02 years of custody and he is not involved in any other case. Further, the petitioner has been falsely implicated in the present case and the case set up by the prosecution is highly improbable vide which the petitioner is alleged to have used two weapons i.e. *Kirch* and fire arm, at the same time. Further there is no specific opinion with regard to any particular injury given by the petitioner, being dangerous to life. Rather a vague opinion has been given by the doctor as per which all the injuries collectively have been referred to being dangerous to life. Further it would be a moot point to be determined by the learned trial Court as to whether the petitioner can be held liable for the offence under Section 307 of Indian Penal Code and the petitioner is behind the bars since 03.05.2023 and charges were framed way back on 01.12.2023 and till date, out of total 34 prosecution witnesses, only 01 Pw has been examined, whereas the complainant has



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been recalled for further cross-examination and he is not coming forward since October 2024.

4. Learned State counsel produces the custody certificate of the petitioner, which is taken on record and assisted by learned counsel for the complainant *per contra*, vehemently opposes the prayer made by the petitioner on the ground that petitioner is the main accused and specific injuries have been attributed to him. As such, he is not entitled to grant of bail by this Court. However, learned State counsel could not controvert the fact that petitioner is behind the bars since 01 year 11 months and 22 days and out of total 37 Pws, only 01 PW has been examined till date.

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 from the last 01 year 11 months and 22 days as on 28.04.2025 and out of total 37 Pws, only 01 has been examined till date. Therefore, conclusion of trial shall take considerable long time.

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

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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. 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.

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

29.04.2025

Ajay Goswami

Whether speaking/reasoned
Whether reportable

Yes/No
Yes/No