

2025:PHHC:056676



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

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Date of decision: 01.05.2025

1. CRM-M-3822-2025

Amritpal Singh

....Petitioner

Versus

State of Punjab

....Respondent

2. CRM-M-10485-2025

Prabhdeep Singh @ Harman

....Petitioner

Versus

State of Punjab

....Respondent

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Mr. R.S. Manhas, Advocate
for the petitioner in CRM-M-3822-2025.

Mr. Ritesh Pandey, Advocate
for the petitioner in CRM-M-10485-2025.

Mr. Sandeep Kumar, DAG, Punjab.

HARPREET SINGH BRAR J. (Oral)

1. Vide this common order, I intend to dispose of CRM-M Nos.3822 and 10485 of 2025, as common questions of law and facts are involved for adjudication. For the sake of convenience, facts are taken from CRM-M-3822-2025.

2. Prayer in both these petitions filed under Section 483 of BNSS, 2023 is for grant of regular bail to the petitioner(s) namely Amritpal Singh and Prabhdeep Singh @ Harman in FIR No.101 dated

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21.11.2024 registered under Sections 25(6), (7), (8)/54/59 of the Arms Act at Police Station Verka Amritsar, District Amritsar.

3. As per the prosecution case, on 21.11.2024, a police team was patrolling near the Verka bypass in a government vehicle when a secret informer approached and disclosed that two persons namely Amritpal Singh of village Sherpur and Prabhdeep Singh @ Harman of village Samrai, Batala, are involved in the business of supplying weapons and ammunition on behalf of gangsters and they are currently in Verka area in a white car for the purpose of delivering arms to a customer. Based on this information, the FIR (supra) has been registered.

4. Learned counsel for the petitioner(s) *inter alia* contends that the petitioner – Amritpal Singh has been elected as member of the Panchayat and both the petitioners are public spirited persons and are doing social service. Both the petitioners are having clean antecedents, however, due to their active involvement in social and community work, their political rivals became inimical towards them and in order to defame them, both the petitioners have been falsely implicated in the FIR (supra). Further there is no concrete evidence available on record to prove the conscious possession of the petitioners over the alleged weapons, recovered in the present case. The police has acted in a biased manner and has planted recoveries. Furthermore, no independent witness was joined during the course of investigation or at the time of alleged recovery. The investigation is complete; both the petitioners are

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not involved in any other case; the case is triable by the Court of learned Magistrate and they have suffered the incarceration of more than 05 months.

5. Learned counsel for the petitioner(s) further submits that there are total 10 prosecution witnesses cited in the list of witnesses, out of which, no PW has been examined till date and the trial is likely to take long time in conclusion.

6. *Per contra*, learned State counsel has filed custody certificates of both the petitioners today in the Court which are taken on record and he opposes the prayer made by learned counsel for the petitioner(s) on the ground that 05 country-made pistols, 02 imported pistols, 05 magazines and 06 live cartridges have been recovered from the petitioners, which were to be used by some anti-social elements, however, he could not controvert the fact that the petitioner(s) are having clean antecedents and are not involved in any other case.

7. Having heard learned counsel for the parties and after perusing the record of the case, it transpires that the petitioner(s) are behind the bars from the last more than 05 months. 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 10 prosecution witnesses, no PW has been examined so far.

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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 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(s)-accused. Keeping the petitioner(s) in further detention without the prospect of the trial being concluded in the near future, would be violative of their rights under Article 21 of the Constitution of India.

10. In view the discussion above, the present petitions are allowed. Accordingly, without commenting upon the merits of the case, the petitioner(s) namely Amritpal Singh and Prabhdeep Singh @

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Harman are ordered to be released on regular bail during pendency of the trial, on their 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.

12. A photocopy of this order be placed on the file of other connected case.

(HARPREET SINGH BRAR)
JUDGE

01.05.2025
yakub

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