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

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CRM-M No.5559 of 2025

Date of decision: 05.02.2025

Jaswinder Kumar @ Preeti

....Petitioner

Versus

State of Punjab

....Respondent

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Mr. Naveen Batra, Advocate for the petitioner.

Mr. Sandeep Kumar, DAG, Punjab.

HARPREET SINGH BRAR J. (Oral)

1. Prayer in this petition filed under Section 483 of BNSS, 2023, is for grant of regular bail to the petitioner in FIR No.89 dated 02.11.2024 registered under Sections 115(2), 118(1), 351(2), 118(2), 191(3), 190 of the Bharatiya Nyaya Sanhita, 2023 (in short 'BNS, 2023') at Police Station Nurpur Bedi, District Rupnagar.

2. As per the prosecution case, on 01.11.2024 the complainant Rakesh Kumar was getting a hair cut done at the shop of Harmesh @ Meshi in the village market, where at about 02:15 PM Dilpreet Singh and Surjeet Singh sons of Bhag Chand, Gurpreet Singh @ Gaggi, Harpreet Singh @ Kala sons of Kamal Chand, Preeti (petitioner herein) son of Shinder resident of Tedewal and an unknown person came. Dilpreet Singh and Harpreet Singh, who were armed with kirpans attacked upon Rakesh Kumar. Dilpreet Singh gave kirpan blow which hit on the left arm of complainant Rakesh Kumar. Harpreet Singh gave kirpan blow which hit on his left leg. Gurpreet Singh @ Gaggi, Surjeet Singh, Preeti and unknown person, who were also armed with kirpans

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had caused injuries on his left arm, left leg and other parts of his person with their respective weapons. Thereafter, the FIR (supra) was registered.

3. Learned counsel for the petitioner *inter alia* contends that similarly situated co-accused of the petitioner namely Harpreet Singh @ Kala, has been granted the concession of regular bail by this Court on 27.01.2025, passed in CRM-M No.3424 of 2025 and there is no plausible motive given by the complainant for the petitioner to have committed such an attack on the complainant. Further the identification of the petitioner is not proved and in the FIR unknown persons have been named and the petitioner's involvement in the case is not supported by any corroborative evidence. Further the injuries sustained by the complainant do not match with the narrative provided by the prosecution.

4. Learned counsel for the petitioner further submits that the petitioner is 23 years of age and there are total 14 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 has filed custody certificate today in the Court which is taken on record and he opposes the prayer made by learned counsel for the petitioner on the ground that the complainant suffered as many as 06 injuries and the petitioner has caused injuries on the left arm of the complainant and he has been specifically named in the FIR as Preeti and is involved in two more cases i.e. FIR No.42 dated 25.04.2022 and FIR No.86 of 2022, however,

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he could not controvert the fact that the petitioner is merely 23 years of age and out of 14 prosecutions witnesses, none 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 26 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 14 prosecution witnesses, no PW has been examined so far.

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."

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

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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.

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 Jaswinder Kumar @ Preeti 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

05.02.2025

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Whether speaking/reasoned:

Yes/No

Whether reportable:

Yes/No