



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

CRM-M-6448-2025
Date of decision: 07.02.2025

ISLAM KHAN ALIAS POLY

...PETITIONER

V/S

STATE OF HARYANA

...RESPONDENT

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Mr. Munfaid Khan, Advocate
for the petitioner.

Mr. Vikas Bhardwaj, AAG, Haryana.

HARPREET SINGH BRAR, J. (ORAL)

1. The present petition has been filed under Section 483 BNSS, 2023 seeking regular bail in case bearing FIR No.719 dated 21.09.2022 (Annexure P-1) under Sections 394/392/397/452/506/34/120-B of IPC and Section 25 of Arms Act, 1959 registered Police Station Sector-58, Faridabad, District Faridabad.

2. The FIR (*supra*) was registered on the statement of the complainant by alleging that on 21.09.2022, her father-in-law and her husband went to their shop at around 09:45 A.M. Thereafter, at about 10:15 A.M., three unknown persons wearing black clothes entered into her house and out of them, one person, pointed knife and pistol on her and on her mother-in-law's neck and threatened to kill them. It is further alleged that after looting all the jewellery and cash, they confined the complainant and her mother-in-law in the bathroom and thus, the instant FIR got registered.



3. Learned counsel for the petitioner *inter alia* contends that one of the co-accused, namely, Sanjay was granted the concession of anticipatory bail by the Coordinate Bench of this Court vide order dated 14.03.2024 passed in CRM-M-46561-2023 (O&M) titled as '*Sanjay Vs. State of Haryana*' and another co-accused, namely, Firoj was granted the concession of regular bail by this Court vide order dated 08.01.2025 passed in CRM-M No.17039 of 2024 titled as '*Firoj vs. State of Haryana*'. He submits that the case of the petitioner is at par with co-accused Firoz as both have been implicated on the basis of confessional statement made by accused Firoz, while he was in police custody, which has no evidentiary value in the eyes of law and the investigation of the case is complete. He further submits that the petitioner is behind the bars since 22.08.2023 and no other case is pending against him.

4. Learned State counsel has filed custody certificate in the Court today which is taken on record and *per contra*, opposes the grant of regular bail to the petitioner on the ground that the petitioner has played an active role in the robbery committed by them and a knife and two gold rings were recovered from his possession. However, he could not controvert the fact that the similarly situated co-accused has been granted the concession of anticipatory bail by the Coordinate Bench of this Court.

5. 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.”

6. Having heard the learned counsel for the parties and after perusing the record of the case, it transpires that the petitioner is behind the bars since 22.08.2023. Investigation is complete. The final report under Section 173 Cr.P.C. was presented before the concerned Court and trial of the case has not made much progress as only 01 out of 22 prosecution witnesses has been examined so far. 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. 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.

7. In view of the above, the present petition is allowed. Thus, without commenting upon the merits of the case, lest it may prejudice the outcome of the trial, the petitioner-Islam Khan *alias* Poly is ordered to be released on regular bail during the pendency of the trial on furnishing bail bonds/surety bonds to the satisfaction of Illaqa Magistrate/Trial Court.



8. Nothing observed hereinabove shall be construed as expression of opinion of this Court on merits of the case and the trial Court shall proceed without being prejudiced by observations of this Court.

February 07, 2025
manisha

(HARPREET SINGH BRAR)
JUDGE

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| (i) | Whether speaking/reasoned | Yes/No |
| (ii) | Whether reportable | Yes/No |