

**CRM-M-6801-2025 (O&M)****1****108+216****IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH****CRM-M-6801-2025 (O&M)
Date of Decision: 11.02.2025****SANDEEP****...Petitioner****Versus****STATE OF HARYANA****...Respondent****CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR**

Present: Mr. Shobhit Rapria, Advocate
for the petitioner.

Mr. Vikas Bhardwaj, AAG Haryana.

*********Harpreet Singh Brar, J. (Oral)****CRM-5807-2025**

Allowed as prayed for.

Testimonies of the prosecution witnesses are taken on record as
Annexure P-9 subject to all just exceptions.

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1. The present petition has been filed under Section 483 of Bharatiya
Nagarik Suraksha Sanhita, 2023 seeking grant of regular bail to the petitioner in
case bearing FIR No. 346 dated 19.06.2022 under Sections 323, 341, 302, 307,
379-B and 34 of Indian Penal Code and Sections 25 and 27 of Arms Act
registered at Police Station Sadar Gohana, District Sonipat.

2. The FIR(supra) was lodged on the complaint of Vinod who stated that
on 19.06.2020, at about 2.00 PM, he was ploughing his agricultural land with
the help of his tractor, when Sandeep (petitioner herein), Deepak, Rajesh and
accused Tilak Raj alias Tilka came there with tractor and stopped their tractor in



front of the tractor of the complainant. Thereafter, they tried to run their tractor over the complainant with intention to kill him. The complainant saved his life by moving aside. Thereafter, all of them started beating him with *Dandas* and *Lathis*. When Shamsher, cousin of complainant, came there and tried to save the complainant from the clutches of accused persons, accused Sandeep caught hold of the complainant from his back, Deepak snatched the revolver of complainant and fired shots at Shamsher alias Pappu which hit on his head and abdomen. As a result of those fired shots, Shamsher succumbed to the injuries. Thereafter, accused Deepak fired upon the complainant with intention to kill him but the bullet did not hit him. Thereafter, accused persons fled away from the spot along with their weapons and while fleeing, they snatched complainant's mobile phone and revolver.

3. Learned counsel for the petitioner *inter alia* contends that no specific role or injury has been attributed to the petitioner as per the case set up by the prosecution. The petitioner was arrested in this case on 21.06.2022 and thrice he has been granted interim bail and he has not mis-used the concession of interim bail granted by the learned trial Court and charges have been framed on 04.01.2023 and there are total 25 prosecution witnesses, out of which only 08 have been examined till date. The material witnesses have not supported the case of the prosecution and have been declared hostile by the learned Public Prosecutor. Moreover, complainant-PW-1 and eye witness-PW-2 have not supported the case of the prosecution and PW-5, wife of the deceased has also not supported the case of the prosecution, which is evident from their testimonies available on record as Annexure P-9 and vide the order passed by learned trial Court, the power under Section 319 of Cr.P.C. was invoked on



and the trial of the case would commence *denovo*. Fresh charges have been framed on 21.10.2024 and the petitioner is having clean antecedents and not involved in any other case.

4. Per contra, the learned State counsel files the custody certificate, which is taken on record and opposes the prayer made by learned counsel for the petitioner on the ground that there is sufficient material available on record to indicate the complicity of the petitioner in the alleged incident, however, he could not controvert the fact that petitioner is not involved in any other case and he has undergone total custody of 01 year 08 months and 15 days.

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 since 26.05.2023 i.e. 01 year 08 months and 15 days as on 10.02.2025 and out of total 25 prosecution witnesses, only 08 have been examined so far, therefore, the conclusion of trial will take sufficient long time. Culpability, if any, would be determined at the time of the trial. The petitioner is not involved in any other case.

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 under-trial 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, not-



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withstanding 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. In view of the above, the present petition is allowed and the petitioner-Sandeep is ordered to be released on regular bail, subject to his furnishing bail bonds/surety bonds to the satisfaction of CJM/Duty Magistrate concerned.

7. 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.

(HARPREET SINGH BRAR)
JUDGE

11.02.2025

Ajay Goswami

<i>Whether speaking/reasoned</i>	<i>Yes/No</i>
<i>Whether Reportable</i>	<i>Yes/No</i>