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IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

CRM-M-6953-2025 (O&M)

Date of Decision: 11.02.2025

DHARAMVEER

...Petitioner

Versus

STATE OF PUNJAB

...Respondent

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Mr. Charitr Kadyan, Advocate and
Mr. Amit Yadav, Advocate for the petitioner.

Mr. Sandeep Kumar, DAG Punjab

Harpreet Singh Brar, J. (Oral)

1. Prayer in this petition filed under Section 483 of the 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 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 had caused



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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 the petitioner has been falsely implicated in the present case and initially 06 persons were named in the FIR, out of which, 02 have been declared as innocent and no plausible motive has been given for the petitioner to have participated in an attack on the complainant. He also submits that the test identification parade of the petitioner is not reliable, wherein the complainant has described the petitioner as an unknown person, raising doubt about the accuracy of identification process and the injuries sustained by the complainant do not match the narrative provided by the prosecution and the accused, who have been named in the FIR namely Harpreet Singh @ Kala and Jaswinder Kumar @ Preeti have been granted the concession of regular bail by this Court vide orders dated 27.01.2025 (Annexure P-3) and 05.02.2025, passed in CRM-M-3424-2025 and CRM-M-5559-2025 respectively and the case of the petitioner is at a better footing than the co-accused who have been granted the concession of regular bail by this Court.

4. Learned counsel for the petitioner further submits that 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. Additionally, the petitioner is 20 years of age and having clean antecedents as he is not involved in any other case.

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



the complainant with a sharp edged weapon, which has been declared as simple in nature and the weapon of offence has already been recovered at the instance of the petitioner, however, he could not controvert the fact that the petitioner is merely 20 years of age and he is not involved in any other case 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 30 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."

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

10. 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

11.02.2025*Ajay Goswami*

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