



110+225

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

CRM-17577-2025 &
CRM-22967-2025 in/and
CRM-M-7398-2025
Date of decision: 24.07.2025

Rahul Kumar

....Petitioner

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Mr. J.S. Dadwal, Advocate
for the applicant/petitioner.

Mr. Sandeep Kumar, DAG, Punjab.

HARPREET SINGH BRAR, J. (ORAL)**CRM-17577-2025**

The present application has been filed under Section 528 of Bharatiya Nagarik Suraksha Sanhita, 2023 for placing on record the statement of complainant, namely, Sonu Kumar.

In view of the averments made in the application, the same is allowed and statement of complainant, namely, Sonu Kumar is taken on record.

CRM-22967-2025

The present application has been filed under Section 528 of Bharatiya Nagarik Suraksha Sanhita, 2023 for placing on record copy of compromise dated 06.09.2024 as Annexure P-8.

In view of the averments made in the application, the same is allowed and copy of compromise dated 06.09.2024 as Annexure P-8 is taken on record.

**CRM-M-7398-2025**

This is fourth petition filed under Section 483 of Bharatiya Nagarik Suraksha Sanhita, 2023 seeking regular bail in case bearing FIR No.50 dated 11.03.2023 under Sections 307/323/341/506/148/149 of IPC registered at Police Station Jamalpur, District Ludhiana. Earlier three petitions were dismissed as withdrawn vide order dated 07.11.2023; 08.05.2024 and 27.11.2024, respectively.

Compactly, the facts of the case are that on 08.03.2023, when the children were playing in the ground, a dispute arose due to declaring one player as out. Shintu, brother of complainant, Sanjay, Gangu and his friend, Sonu, were playing from one side and the accused/petitioner and others were playing from other side. During scuffle, family members of the accused/petitioner came there and they were armed with wooden sticks, wooden logs and starting beating Shintu. The petitioner gave stick blow on his head with an intention to kill him, as a result, Shintu suffered injuries on his head and he fell down and the petitioner again gave stick blow on his head and Saurav gave wooden log blow on the head of Shintu which hit on his right arm and Sachin gave cricket blow on the wrist of Shintu and when Sanjay, Gangu and Sonu came to rescue the injured, the accused persons also gave injuries to them and fled away from the spot and thus, the instant case.

Learned counsel for the petitioner *inter alia* contends that perusal of the case set up by the prosecution clearly indicates that the fight took place when the petitioner along with injured were playing cricket, as such, there was no previous enmity or *mens rea* to have inflicted injury on the injured, namely, Shintu Kumar. Further, the complainant, namely, Pintu Kumar, has been



CRM-M-7398-2025 (O&M)

-3-

examined as PW-1 before the learned trial Court and his deposition is available on record as Annexure P-2. He has not supported the case of prosecution and as such, he has been declared hostile by the learned Public Prosecutor. Learned counsel for the petitioner further submits that the totality of the circumstances collectively indicates that the petitioner neither had the intention nor the knowledge that the bodily injury inflicted was likely to cause harm that could be considered dangerous to life and further, the petitioner has suffered the incarceration of more than 02 years and 04 months and he is not involved in any other case. Even the parties who are living in the neighbourhood have effected a compromise on 06.09.2024 with the intervention of the common friends and respectables of the society.

The 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 caused injury on the vital part for which the injured was referred to PGI and he remained admitted in the Department of Neuro Surgery.

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."



CRM-M-7398-2025 (O&M)

-4-

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 16.03.2023. 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 02 out of 09 prosecution witnesses have been examined so far and 03 have been given up. 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.

In view 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-Rahul Kumar, is ordered to be released on regular bail during trial on his furnishing bail bonds/surety bonds to the satisfaction of Illaqa Magistrate/Trial Court.

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

24.07.2025*Neha*

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