



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

222

CRM-M-8067-2025 (O&M)
Date of decision: 05.05.2025

Ajay Kumar @ Kala

....Petitioner

Versus

State of Haryana

....Respondent

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Mr. R.S. Rai, Sr. Advocate
with Mr. Karan Pathak, Advocate
and Mr. Saurabh Sharma, Advocate
for the petitioner.

Mr. Vikas Bhardwaj, AAG, Haryana.

Mr. Sumit Sangwan, Advocate
for the complainant.

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.306 dated 28.09.2023 registered under Sections 302, 307, 506, 120-B, 34 IPC at Police Station Kalayat, District Kaithal.
2. As per the complainant Deepak Kumar, on 28.09.2023, his relative Sahil and Shakti were being chased by a white Maruti Ciaz car bearing registration No.HR31-K-2289 near Dharma Wala Chowk, Village Batta. The car, allegedly driven by Ajay and occupied by Nakul, Yogesh @ Chiku, Honey, and Nishant Rana, armed with sticks, intentionally hit Sahil's motorcycle from behind, causing him to fall, while Shakti managed to escape. The accused allegedly got out of the



car, checked Sahil and thereafter ran away from the spot. Injured Sahil was taken to Cygnus Hospital, Kaithal, where he was declared dead. Thereafter, the impugned FIR was registered.

3. Learned Senior counsel for the petitioner, *inter alia*, contends that the deceased Sahil had died in a road side accident. He relies upon the post-mortem report (Annexure P-3), and submits that the nature and extent of injuries clearly indicates that they are the result of compact injuries caused by an accident and there is no injury on the person of deceased Sahil, which would remotely suggest that the deceased was given injuries with deadly weapons. At the most, the case, even if the allegations are accepted as gospel truth, would be under Section 304-A IPC. Admittedly, the petitioner was not having any acquaintance or connection with the deceased Sahil and one case was registered only on the statement made by co-accused Nakul against Shakti and others, in which the deceased Sahil was not even nominated as an accused. Immediately after the alleged incident, the complainant gave interviews to news channels in which he has claimed that he reached the spot after 15-20 minutes of the occurrence and he also claimed that the petitioner has not taken the deceased to hospital, which resulted in his death.

3.1. Learned Senior counsel for the petitioner further contends that the complainant appeared and proved his version as eye-witness of the alleged incident, although his presence at the spot is highly doubtful. Similarly situated 02 of the co-accused namely Vishant and Yogesh @



Cheeku, have already been granted the concession of regular bail vide order(s) dated 14.01.2025 passed by this Court in CRM-M No.356 of 2025 and dated 17.01.2025, passed by learned Additional Sessions Judge, Kaithal, respectively. Further, on the same set of allegations one of the co-accused namely Honey has been declared innocent, which further undermines the case set up by the prosecution.

4. Learned Senior counsel for the petitioner further submits that the petitioner is having clean antecedents and is not involved in any other case. Further the petitioner is behind the bars since 29.09.2023 and there are total 23 prosecution witnesses cited in the list of witnesses, out of which, only 01 PW has been examined till date and the trial is likely to take long time in conclusion.

5. *Per contra*, learned State counsel assisted by learned counsel for the complainant, has filed custody certificate today in the Court which is taken on record and opposes the prayer made by learned counsel for the petitioner on the ground that the petitioner was the main accused and he was driving the offending vehicle at the time when he hit the motorcycle of the deceased, which resulted into his death, however, he could not controvert the fact that the petitioner is not involved in any other case and out of 23 PWs, only 01 PW 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 01 year, 07 months and 02 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 23 prosecution witnesses, 01 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 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 Ajay Kumar @ Kala 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/Duty Magistrate.

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

05.05.2025
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Whether speaking/reasoned:	Yes/No
Whether reportable:	Yes/No