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

CRM-M-10290-2025

Date of decision: 31.07.2025

Mohammad Shahjahan @ Sajan @ Shahzahan

....Petitioner

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR**Present:** Mr. Ramandeep, Advocate
for the petitioner.

Mr. Subhash Godara, Addl.A.G., Punjab.

HARPREET SINGH BRAR, J. (ORAL)

The present petition has been filed under Section 483 of Bharatiya Nagarik Suraksha Sanhita, 2023 seeking regular bail in case bearing FIR No.7 dated 11.01.2022 under Sections 302/148/149/427/482/411/201/120-B of IPC and Sections 25/54/59 of Arms Act registered at Police Station Tripari, District Patiala.

Summarily, the facts of the case are that on 11.01.2022 at around 09:40 A.M., the complainant was present at his house which was under construction and in the meantime his brother, namely, Tara Dutt, came there in his car to serve tea to him and labourers. When his brother had just stopped his car, two other cars also reached there and Abu, Jitender Shergill, Kanwar Ravdeep Singh, Jaspreet Singh @ Maggu, Mani Walia and 8/9 unknown persons armed with fire arms and sharp edged weapons got down from the said two cars and started firing towards the car of Tara Dutt. Thereafter, Tara Dutt tried to ran away after getting down from his car but all the accused persons fired at him due to which Tara Dutt was badly injured and fell near the car and then the accused persons fled away from the spot and thus, the instant case.



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Learned counsel for the petitioner *inter alia* contends that the petitioner has been falsely implicated in the present case. The petitioner was not named in the FIR (*supra*). He was nominated as an accused later on on the statement made by one Ravinder Singh. He further submits that 03 material witnesses including the complainant have already been examined by the learned trial Court and all of them have not supported the case of prosecution and they have been declared hostile by the learned Public Prosecutor. Further, the aforementioned Ravinder Singh on whose statement, the petitioner was nominated as an accused has been given up by the prosecution as discernible from Annexure P-6. Similarly situated co-accused, namely, Abbu, has been granted the concession of regular bail by this Court vide order dated 05.08.2024 passed in CRM-M-36061-2024 titled as 'Abbu @ Sufiyan @ Moh. Abu Sufiyan' (Annexure P-13). The petitioner has suffered incarceration of more than 02 years and 07 months and till date, out of total 26 prosecution witnesses, only 03 witnesses have been examined.

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 complicity of the petitioner is duly established during investigation and a pistol was recovered from him. Keeping in view the serious nature of offence and the fact that the petitioner is involved in other cases also, he is not entitled to any relief.

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.”

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 14.12.2022. 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 03 witnesses, out of 26 prosecution witnesses, have 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.

Keeping in view the law laid down by the Hon'ble Supreme Court of India in '**Prabhakar Tewari Vs. State of U.P. and another**' 2020 (1) R.C.R. (Criminal 831) and '**Maulana Mohd. Amir Rashadi Vs. State of U.P. and**

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Another', 2012 (2) SCC 382, the involvement of the petitioner in other cases would not be a ground to refuse grant of concession of regular bail.

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-Mohammad Shahjahan @ Sajan @ Shahzahan, 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

31.07.2025*Neha*

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