



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

CRM-M-14598-2025
Date of decision: 24.03.2025

PAPPU SINGH

...PETITIONER

V/S

STATE OF HARYANA

...RESPONDENT

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Mr. Sumeet S. Brar, Advocate
for the petitioner.

Mr. Vikas Bhardwaj, AAG, Haryana.

HARPREET SINGH BRAR, J. (ORAL)

1. This is the second petition filed under Section 439 Cr.P.C. for grant of regular bail to the petitioner in case bearing FIR No.120 dated 29.04.2022, registered for the offences punishable under Sections 302/201/147/148/149 of IPC and Section 25 of Arms Act at Police Station Kalannwali, District Sirsa.

2. The brief facts of the present case are that on 29.04.2022 at about 5:00 PM, when the complainant's mother was coming from the house of neighbourers and came near the gate, due to some property dispute, Rani, her husband Pappu (petitioner herein), her son Nikka Singh and two other young persons, whose faces were covered, in connivance with each other attacked upon her with their respective weapons i.e. *kirpan*, *kulhari* and pistol and gave injuries to her on various parts of body and neck of mother of the complainant was separated from the body and she died on the spot. Hence, the FIR (*supra*) was registered.



3. Learned counsel for the petitioner submits that the first petition seeking the concession of regular bail was dismissed as withdrawn on 20.05.2024 and the present petition has been filed on account of delay in conclusion of the trial as the petitioner has suffered incarceration of more than 02 years and 08 months. He further submits that till date, only 04 prosecution witness have been examined out of 28 cited witnesses. Further, bailable warrants against the complainant-Kamaldeep Kaur have been issued as she is not appearing to depose as a witness.

4. Learned counsel for the petitioner further contends that the perusal of the FIR (*supra*) indicates that no specific role or specific injury has been attributed to the petitioner. Further, during investigation, the investigating agency has concluded that while, the petitioner was armed with pistol stood as guard, others have committed the murder of the deceased. Learned counsel further refers to the post-mortem report (Annexure P-3) and submits that the death of deceased took place due to injuries inflicted on her with sharp weapon, which have been recovered from the co-accused. He further relies upon medical certificate of the petitioner (Annexure P-6) and submits that the petitioner is a disabled person and his disability has been assessed as 70% as discernible from aforementioned handicapped medical certificate. Learned counsel further contends that the entire family has been roped in, whereas the petitioner has no connection with the alleged incident and he is behind the bars since 09.07.2022.

5. 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 played active role in



commission of the murder of deceased as he was the part of unlawful assembly and brutal attack was launched on the deceased. The neck of the deceased was separated from the body. As per custody certificate, petitioner is also involved in one more case under IPC. However, he could not controvert the fact that the petitioner has undergone a total custody period of 02 years, 08 months and 14 days and out of total 28 prosecution witnesses, only 04 have been examined till date.

6. 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.”

7. Having heard the learned counsel for the parties and after perusing the record of the case, it transpires that the petitioner is behind the bars since 09.07.2022 as per his custody certificate. 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 04 out of 28 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.

8. As far as the issue of the petitioner being a habitual offender is concerned, the Hon'ble Supreme Court in *Prabhakar Tewari vs. State of U.P. 2020 (11) SCC 648* and *Maulana Mohd. Amir Rashadi vs. State of U.P. and another (2012) 2 SCC 382*, has categorically held that the grave and serious allegations leveled against the accused or pendency of other cases against him cannot be the only basis to refuse the prayer of bail.

9. In view of 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-Pappu Singh is ordered to be released on regular bail during the 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 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.

March 24, 2025
manisha

(HARPREET SINGH BRAR)
JUDGE

(i)	Whether speaking/reasoned	Yes/No
(ii)	Whether reportable	Yes/No