



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

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CRM-M-11285-2025 (O&M)
Date of decision: 05.03.2025

Rajesh

....Petitioner

Versus

State of Haryana

....Respondent

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Mr. Shobhit Rapria, Advocate
for the petitioner.

Ms. Geeta Sharma, DAG, Haryana.

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.346 dated 19.06.2022 registered under Sections 323, 341, 302, 307, 379-B, 34 IPC and Sections 25, 27 of the Arms Act, at Police Station Sadar Gohana, District Sonapat.

2. The FIR(supra) was lodged on the complaint of Vinod who stated that on 19.06.2020, at about 2.00 PM, he was ploughing his agricultural land with the help of his tractor, when Sandeep, Deepak, Rajesh (petitioner herein) and accused Tilak Raj @ Tilka came there with tractor and stopped their tractor in front of the tractor of the complainant. Thereafter, they tried to run their tractor over the complainant with an intention to kill him. The complainant saved his life by moving aside. Thereafter, all of them started beating him with *dandas and lathis*. When Shamsheer, cousin of the complainant, came



and tried to save the complainant from the clutches of accused persons, accused Sandeep caught hold of the complainant from his back, Deepak snatched the revolver of complainant and fired shots at Shamsher @ Pappu which hit on his head and abdomen. As a result of those fired shots, Shamsher succumbed to the injuries. Thereafter, accused Deepak fired upon the complainant with intention to kill him but the bullet did not hit him. Thereafter, accused persons ran away from the spot along with their respective weapons and while fleeing, they snatched the complainant's mobile phone and revolver.

3. Learned counsel for the petitioner *inter alia* contends that no specific role or injury has been attributed to the petitioner, as per the case set up by the prosecution and the petitioner was arrested on 26.06.2022 and even the co-accused of the petitioner, namely Sandeep has already been granted the concession of regular bail by this Court vide order dated 11.02.2025 passed in CRM-M No.6801 of 2025. He further submits that charges have been framed on 04.01.2023 and there are total 25 prosecution witnesses, out of which only 08 have been examined till date. The material witnesses have not supported the case of the prosecution and have been declared hostile by the learned Public Prosecutor. Moreover, complainant PW-1 and eye witness PW-2 have not supported the case of the prosecution and PW-5, wife of the deceased has also not supported the case of the prosecution, which is evident from their testimonies available on record as Annexure P-5 and vide the order passed by learned trial Court, the power under Section 319 of Cr.P.C. was invoked on 03.09.2024 and some of the accused



have been summoned as additional accused and the trial of the case would commence *de novo*. Fresh charges have been framed on 21.10.2024 and the petitioner is having clean antecedents and not involved in any other case.

4. *Per contra*, the learned State counsel files the 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 there is sufficient material available on record to indicate the complicity of the petitioner in the alleged incident, however, he could not controvert the fact that petitioner is not involved in any other case and he has undergone total custody of 02 years 08 months and 11 days.

5. 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 years, 08 months and 11 days as on 04.03.2025 and out of total 25 prosecution witnesses, only 08 have been examined so far and the conclusion of trial will take sufficient long time.

6. 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.”

7. 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.

8. In view the discussion above, the present petition is allowed. Accordingly, without commenting upon the merits of the case, the petitioner namely Rajesh is ordered to be released on regular bail during pendency of the trial, on his furnishing bail bonds/surety bonds to the satisfaction of Illaqa Magistrate/Trial Court/Duty Magistrate.

9. 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

05.03.2025
yakub

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