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

CRM-M-11545-2025

Date of decision: 24.04.2025

Kewal Singh and another

....Petitioners

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Mr. G.S. Nahel, Advocate
for the petitioners.

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

Mr. Jashanpreet Singh Chadha, Advocate
for the complainant.

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.0099 dated 02.11.2024 under Sections 110/331(6)/115(2)/191(2)/192/351(3)
/324(6)/126(2) of BNS (Section 126(2) of BNS added later on) registered at
Police Station Cheema, District Sangrur, Punjab.

The following is a complete reproduction of the FIR to present the
complete factual narrative:-

‘3 to 11 xxx not relevant xxx

12. First Information contents (Attach separate sheet, if necessary):
Copy of the Statement: Statement by Sukhdev Singh, son of Maghar Singh,
son of Bakhtaur Singh, resident of Maino Patti Namol, Police Station,
Cheema, District Sangrur, aged about 59 years. Mobile No. 9463676699.
Stated that "I, am the resident of the above said address, and do agricultural
work. Yesterday, night of 01.11.2024, time around 11:00 PM, I was sitting in
my courtyard (Baagal) with my son Harinder Singh and Dilpreet Singh, son
of Jagraj Singh, along with Boota Singh, son of Chhota Singh, residents of
Namol, we were talking. Then, our neighbour Sita Singh, son of Bhag Singh,
called out and asked us to open the gate. Then at that moment, Chamkor
Singh, son of Chhota Singh, Seera Singh, son of Bhang Singh, Makhn
Singh, and Kewal Singh, sons of Sita Singh, residents of Namol, forcibly
entered our premises. They grabbed my son Harinder Singh by his arms and
dragged him to the road. I followed them to the road, where in the light of



the streetlamps, Senti Singh and Bunty Singh, sons of Bhagwant Singh, armed with motorcycle chains fitted with wooden handles, and Labhpreet Singh, son of Gurdeep Singh, armed with a Daang; Hardeep Singh, son of Harbans Singh alias Bobby, armed with an rod; Satnam Singh, son of Bhola Singh, armed with a Daang; Amritpal Singh, son of Matwal Singh, armed with a spiked club (Khapra); and Major Singh, son of Karam Singh, armed with a Daang, all residents of Namol, were encircled my son Harinder Singh, and Sita Singh shouted that, "Catch him, don't let him go today". Then at that time, Senti Singh, holding a motorcycle chain, struck my son Harinder Singh on his forehead with the intent to kill, which hit upon the head of my son. At the same time, Bunty Singh with his chain, struck my son on the left side of his head near the left ear, and Lavpreet Singh with his spiked club (Daang) carrying in his hand, struck my son on the left side of the head near the right ear. Then Hardeep Singh with his rod, carrying in his hand, struck my son on the center of his head. Then Satnam Singh with his Daang, carrying in his hand, struck on the back side of my son's head. Then Amritpal Singh with his spiked club (Khapra), carrying in his hand, hit upon my son's head. At the same time, Major Singh son of Karam Singh, with his Daang, carrying in his hand, struck my son on the back side of his head near the right ear. Consequently, my son fell to the ground, bleeding profusely. While he was lying on the ground, these all peoples continued to beat him. They also completely broke the main gate of my house. I raised an alarm "Maarta Maarta". Then, the above-mentioned persons threatened to kill us and fled from the spot. Subsequently, my nephew Amritpal Singh, son of Kaka Singh, resident of Namol, arranged vehicle and got admitted my son at the Civil Hospital, Sunam, for treatment. The doctors there, seeing his deteriorating condition after initial treatment, referred him to Rajindra Hospital, Patiala. Then, we admitted our son at Amar Hospital, Patiala, where he is currently undergoing treatment. His head surgery was accomplished today. That the above-mentioned persons in a premeditated manner and armed with lethal weapons, inflicted injuries on my son with the intent to kill. Out of above-mentioned persons, some persons arrived on two motorcycles. Reason for dispute is that our neighbour Sita Singh, who runs a scrap shop, who suspects us about reporting about stolen goods purchased by him to the police. Sita Singh already has a theft case registered against him. Believing this suspect, Sita Singh called the above- mentioned persons, who forcibly entered our courtyard, dragged my son to the road, and inflicted injuries to him with the intentions to kill him. Appropriate legal action be taken against all these above-mentioned persons. I have been recorded this statement to you, read, and it is correct". SD/ Applicant, Sukhdev Singh (above-said). Attested SD/- ASI Gurbachan Singh, Police Station, Cheema. Dated: 02.11.2024. Police Proceedings: Today, a telephone call was received from Police Station City, Sunam, that Harinder Singh, son of Sukhdev Singh, has been admitted at Civil Hospital, Sunam. Prior to this, another call was received from Amar Hospital, Patiala, stating that the above said injured was admitted there. Necessary action be initiated. Following this, I, ASI Gurbachan Singh, along with ASI Ajaib Singh 715/Sangrur, Constable Gurjeet Singh 38/Sangrur, and PHG Jarnail Singh No.47808, proceeded from the Police Station City, Sunam, after obtaining the injured person's ruqa, and arrived at the Government Hospital, Sunam. There, we obtained above said injured person's MLR bearing No.PSD/206/SNM/2024, on which respected Doctor recorded seven blunt force injuries. That all injuries were advised by the respected doctor to be kept under observation pending X- ray results. To record the statement of the injured person, a written opinion sought from the respected Doctor. Upon which, the respected Doctor referred the case to Rajindra Hospital, Patiala, in writing. Upon which, myself, ASI Gurbachan Singh, along with fellow co-officials, had already reached at Rajindra Hospital, Patiala, regarding government work. Subsequently, I, ASI along



with fellow co-officials arrived at Amar Hospital, Patiala, to obtain the statement of the injured person. A written medical opinion for recording above said injured person's statement was obtained from the respected doctor, who declared the injured person unfit to give a statement. Consequently, myself, ASI, recorded the statement of Sukhdev Singh, the father of the injured person, based on his verbal account. The statement was recorded word to word, read aloud to him, and he read his statement, found as correct and appended his respective signatures in English. I attested the same. Based on the statement and the MLR, offenses under Sections 110, 331(6), 115(2), 191(2), 192, 351(3), and 324(6) of the B.N.S, have found to be committed. Therefore, the statement file forwarded to Constable Gurjeet Singh No.38/Sangrur to the Police Station, for registering a case as per above said offences against the Chamkor Singh, son of Chhota Singh; Seera Singh, son of Bhang Singh, Makhan Singh, son of Sita Singh; Kewal Singh, son of Sita Singh; Senti Singh; Bunty Singh, sons of Bhagwant Singh; Labhpreet Singh, son of Gurdeep Singh; Hardeep Singh, son of Harbans Singh alias Bobby; Satnam Singh, son of Bhola Singh; Amritpal Singh, son of Matwal Singh; Major Singh, son of Karam Singh, armed with Daang, all residents of Namol, Police Station, Cheema, District Sangrur. After registering the case, its number be informed. I along with fellow co-officials engaged on the spot for proceedings. Within the boundary of Amar Hospital, Patiala. Time 06:00 PM. SD/ Gurbachan Singh, ASI, Police Station, Cheema. Dated:02.11.2024. Upon receiving the statement, the case as per above said offences has been registered against the Chamkor Singh, son of Chhota Singh; Seera Singh, son of Bhang Singh; Makhan Singh, son of Sita Singh; Kewal Singh, son of Sita Singh, residents of Namol; Senti Singh; Bunty Singh, sons of Bhagwant Singh; Labhpreet Singh, son of Gurdeep Singh; Hardeep Singh, son of Harbans Singh alias Bobby; Satnam Singh, son of Bhola Singh; Amritpal Singh, son of Matwal Singh; Major Singh, son of Karam Singh, armed with Daang, residents of Namol, Police Station, Cheema, District Sangrur. The entry was recorded. The intimation being given through E-mail to 1/C control room, Sangrur. The case file, along with the original statement being sent by hand through incoming CT Gurjeet Singh 38/Sangrur to ASI Gurbachan Singh No.503/Sangrur, Police Station, Cheema, present on the spot, for further investigation.
13 to 15 xxx not relevant xxx'

Learned counsel for the petitioners *inter alia* contends that as per the case set up by the prosecution, the petitioners have not inflicted any injury. Further, no offence under the provisions of Section 110 of BNS is made out. The offence has been added on the basis of fake opinion obtained from a private hospital. The opinion has been given that all the injuries collectively are dangerous to life. The petitioners are behind the bars since 08.11.2024 and they are not involved in any other case.

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 petitioners on the ground that the petitioners have played an active role in the alleged incident and they have been specifically named in the FIR (*supra*). However, he could not controvert the fact that the petitioners have not been attributed any injury.

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 petitioners are behind the bars since 08.11.2024. 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 out of 25 prosecution witnesses, none has 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/petitioners. Keeping the petitioners in further detention without the prospect of the trial being concluded in the near future, would be violative of

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their 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 petitioners-Kewal Singh and Makhan Singh, are ordered to be released on regular bail during trial on their 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

24.04.2025*Neha*

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