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IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

CRM-M-11720-2025 (O&M)

Date of Decision: 07.03.2025

DALER SINGH AND ANOTHER

...PETITIONERS

Versus

STATE OF PUNJAB AND OTHERS

...RESPONDENTS

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Mr. Keshav Pratap Singh, Advocate
for the petitioners.

Mr. Sandeep Kumar, DAG Punjab.

Mr. Sanskar Dhanda, Advocate
for respondents No. 2 and 3.

Harpreet Singh Brar, J. (Oral)

1. The present petition has been filed under Section 483 of Bharatiya Nagarik Suraksha Sanhita, 2023 seeking grant of regular bail to the petitioners in case bearing FIR No. 10 dated 19.01.2025 under Sections 118(2), 117(2), 126(2), 3(5) of Bhartiya Nyaya Sanhita 2023 (for short 'BNS') registered at Police Station Balachaur, District SBS Nagar.

2. FIR(supra) was registered on the statement of Amar Chand who stated that he was working as truck driver bearing registration No. JK-05L-4285 of Sanju Naiko. Deep Singh son of Romesh Singh, who was working as conductor, was also living with him. On 17.01.2025 after loading the biscuits (Indo-Swift Logistic Company, Sambhu) from Sambhu border, they were going towards Kahar. At about 10.30 PM when they reached at Rajan Dhaba, Balachaur, in the meanwhile two persons came on a motorcycle from backside and parked their motorcycle in front of their truck and encircled their vehicle, they were armed with *Kirpan* and *Dattar*. These unknown persons started giving

beatings to them with *dattar* and *Kirpan* while they were sitting in their vehicle.

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They started demanding money, when they refused to give money to them, then both the persons gave blows with their weapons upon them. They gave injuries on complainant's head with their weapon. Out of them, one person gave injuries upon him near his right ear, near the mouth and near left ear. Both of them gave injuries upon his left elbow, bicep and on his right hand and also gave injuries on his fingers of both hands with the weapons, they also gave injury on his right knee. They also caused injuries to Deep Singh with the *Kirpan* and *Dattar*. After giving injuries to them the above said persons fled away from the spot along with their respective weapons after giving threats to them. FIR was registered. Investigation was carried out and petitioners were arrested by the police authorities.

3. Learned counsel for the petitioners *inter alia* contends that FIR(supra) was registered on the statement made by Amar Chand. The petitioners were not named in the FIR and further there is no motive with regard to participation of the petitioners in the alleged incident and the FIR(supra) was registered after a delay of 02 days. The petitioners were not earlier known to the complainant and incident, as per the case set up by the prosecution, happened at the spur of the moment and it is a case of road-rage and now with the intervention of respectables, a compromise has been effected between the parties and the affidavit of the complainant and injured is available on record as Annexure P-1.

4. Mr. Sanskar Dhanda, Advocate has put in appearance on behalf of respondents No. 2 and 3 and filed his power of attorney. Same is taken on record. Learned Counsel for respondents No. 2 and 3 submits that compromise has been effected between the private parties and respondents No. 2 and 3 have

No objection, in case the petitioners are granted regular bail.

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5. Learned State counsel files the custody certificate, which is taken on record and *per contra* opposes the prayer made by learned counsel for the petitioners on the ground that petitioners have caused injuries to the complainant party, which attracts the offence under Section 118(2) of BNS and further during the course of investigation, offence under Section 238 of BNS has been added in the FIR(supra) vide DDR No. 123 dated 22.01.2025.

6. Faced with the same, learned counsel for the petitioners submits that the abovesaid fact was never brought on record and even when the regular bail was dismissed by learned Additional Sessions Judge, SBS Nagar on 13.02.2024, it was not brought to the notice of the petitioners or the learned trial Court and he prays that the newly added Section i.e. 238 of BNS may be added in the headnote and prayer clause of the petition on his oral request.

7. Prayer is allowed.

8. Offence under Section 238 of BNS is ordered to be added in the headnote and prayer clause of the petition. Registry is directed to make the necessary changes.

9. 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 22.01.2025 i.e. 01 month and 12 days as on 06.03.2025 and further matter stands compromised between the parties. Culpability, if any, would be determined at the time of the trial. The petitioners are not involved in any other case.

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 under-trial 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



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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.”

10. In view of the above, the present petition is allowed and the petitioners- Daler Singh and Gurmeet Singh are ordered to be released on regular bail, subject to their furnishing bail bonds/surety bonds to the satisfaction of CJM/Duty Magistrate concerned.

11. 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

07.03.2025

Ajay Goswami

Whether speaking/reasoned

Yes/No

Whether reportable

Yes/No