



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

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**CRM-M No.12694 of 2025 (O&M)
Date of decision: 01.04.2025**

Davinder Singh @ Deepu Nai

....Petitioner

Versus

State of Punjab

....Respondent

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Mr. Amit Kumar Walia, Advocate
for the petitioner.

Mr. Sandeep Kumar, DAG, Punjab.

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.154 dated 24.08.2024 registered under Sections 331(6), 115(2), 193(3), 324(4)(5), 190 of BNS, 2023 at Police Station City-1 Sangrur, District Sangrur.
2. The brief facts of the case are that Tarsem Singh, an auto rickshaw driver reported that on the evening of 23.08.2024, while he was having dinner with his family, a group of armed individuals entered his house. The assailants included Budhi, Golri, Sunny, Nath, Gagan, Shubham Boxer, Deepu Nai (petitioner herein) and Kalu, who were carrying iron rod pipes, kirpans, and other sharp edged weapons. Thereafter, Gagan attacked Tarsem with an iron rod, injuring his left arm. On raising hue and cry by the injured, the assailants started causing damage to his house wall and thereafter, they ran away from the spot

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along with their respective weapons. Subsequently, the FIR (supra) was registered.

3. Learned counsel for the petitioner *inter alia* contends that the identically situated co-accused of the petitioner namely Vijay Kumar @ Gogri has already been granted the concession of anticipatory bail by this Court vide order dated 28.02.2025, passed in CRM-M-4960 of 2025. Further the petitioner is only alleged to have demolished the boundary wall of the house of the complainant and the Investigating Officer has not collected the CCTV footage and call records to connect the presence of the petitioner at the time of alleged incident. He further submits that the injury suffered by the complainant is simple in nature and the same is attributed to co-accused Gagan and the petitioner is in custody since 27.01.2025 and he is not involved in any other case.

4. Learned counsel for the petitioner further submits that the case is at the investigation stage and even charges are yet to be framed against the accused persons and thus, the trial of the case is likely to take long time in conclusion.

5. *Per contra*, learned State counsel has filed 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 the petitioner has played an active role in the alleged incident as he along with other accomplices has trespassed into the house of the complainant and thereafter, caused injuries on his person, however, he could not controvert the fact that the petitioner is not involved in any other case.

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6. 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 months and 03 days. Investigation is under process. The final report under Section 173 Cr.P.C. is yet to be presented before the concerned Court.

7. 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."

8. 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

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future, would be violative of his rights under Article 21 of the Constitution of India.

9. In view the discussion above, the present petition is allowed. Accordingly, without commenting upon the merits of the case, the petitioner namely Davinder Singh @ Deepu Nai 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.

10. At this stage, learned counsel for the petitioner submits that during the pendency of the trial, the offence under Section 238 of BNS, 2023, has been added in the FIR (supra) and he requests that the said Section be added in the headnote and prayer clause of the present petition.

11. Learned State counsel, on instructions from ASI Jaswinder Singh, has acknowledged the fact that the offence under Section 238 of BNS, 2023, has been added in the FIR (supra).

12. Accordingly, Section 238 of BNS, 2023 is ordered to be added in the headnote and prayer clause of the main petition in addition to Sections 331(6), 115(2), 193(3), 324(4)(5), 190 of BNS, 2023.

13. The Registry is directed to make necessary addition in the headnote and prayer clause of the main petition.

14. It is also clarified that the order of even date passed by this Court, shall be read as '*granting bail to the petitioner under Sections 331(6), 115(2), 193(3), 324(4)(5), 190 and 238 of BNS, 2023.*'

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15. 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

01.04.2025
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Whether speaking/reasoned:	Yes/No
Whether reportable:	Yes/No