



**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**
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CRA-S-865-2025 (O&M)
Date of decision: 01.05.2025

Buta Singh @ Popli
Versus
State of Haryana and another
....Appellant
....Respondents

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Mr. Mohan Singla, Advocate
for the appellant.

Mr. Vikas Bhardwaj, AAG, Haryana.

Mr. B.S. Mamli, Advocate
for respondent No.2.

HARPREET SINGH BRAR J. (Oral)

1. Prayer in the instant appeal is for setting-aside the order dated 11.02.2025 passed by the learned Additional Sessions Judge, Fatehabad, vide which the concession of regular bail to the appellant has been declined. Further prayer has been made to grant the concession of regular bail to the appellant in FIR No.034 dated 15.02.2024 registered under Sections 302, 201, 120-B IPC and Section 3(2)(va) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act (in short ‘the SC/ST Act’), at Police Station City Ratia, District Fatehabad.
2. As per the prosecution case, the FIR (supra) was registered on the statement made by Kabira son of Darya Ram, resident of village Palsar wherein he stated that he is resident of aforesaid address and he is



night watchman in the fields situated near Ghagger river, Ratia. On 15.02.2024 at about 03:00 PM, he was guarding the fields near Ghagger river and when he reached near bridge of Ghagger river on Budhlada road, he saw a dead body floating in the river and the face of the dead body was out of the bag (bori) which was of a female and other body was in the bag (bori). He informed the police and the police reached on the spot. Thereafter, the impugned FIR was registered.

3. Learned counsel for the appellant *inter alia* contends that the appellant has been falsely implicated in the FIR (supra). The appellant has only been arrayed as an accused under Section 201 IPC and Section 3(2)(va) of the SC/ST Act. Learned counsel for the appellant relies upon Annexure A-2 i.e. the order framing charges dated 28.01.2025 and submits that the appellant has been charge-sheeted for commission of offence under Section 201 IPC and Section 3(2)(va) of the SC/ST Act. Moreover, as per the case set up by the prosecution, the appellant was not directly involved in committing the murder of the deceased rather he was only called by co-accused Jagdish, for disposal of the dead body of deceased by arranging a bag. The appellant is in custody since 14.07.2024 and *prima facie* no offence under the provisions of the SC/ST Act is made out as the appellant himself belongs to a Scheduled Caste category. The investigating agency have already concluded the investigation.



4. Learned counsel for the appellant further submits that there are total 36 prosecution witnesses cited in the list of witnesses, out of which not even a single prosecution witness has been examined till date.

5. *Per contra*, learned State counsel assisted by learned counsel for respondent No.2, has filed custody certificate along with reply by way of affidavit of Nar Singh, Deputy Superintendent of Police, Ratia, District Fatehabad, which are taken on record and vehemently opposes the prayer made by learned counsel for the appellant on the ground that the appellant had played an active role in disposal of the dead body of the deceased and destroying the evidence and he is a habitual offender and involved in other cases also.

6. Having heard learned counsel for the parties and after perusing the record of the case with their able assistance, it transpires that the appellant is in custody for the last 09 months and 16 days and the trial of the case will take long time in its conclusion as out of 36 prosecution witnesses, no PW has been examined so far. The culpability, if any, would be determined at the time of trial. Keeping the appellant 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.

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 as under:



“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 keeping in view the law laid down by the Hon’ble Supreme Court of India in **“Prabhakar Tewari vs. State of U.P. and another”** 2020 (1) R.C.R. (Criminal 831) and **“Maulana Mohd. Amir Rashadi vs. State of U.P. and another”**, 2012 (2) SCC 382, the involvement of the appellant in other cases would not be a ground to refuse grant of concession of regular bail.

9. Accordingly, without commenting upon the merits of the case, the present appeal is allowed, the order dated 11.02.2025 is set-aside and the appellant namely Buta Singh @ Popli is ordered to be released on regular bail on furnishing bail bonds/surety bonds to the satisfaction of Illaqa Magistrate/Trial Court/Duty Magistrate.

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10. 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

01.05.2025
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Whether speaking/reasoned:	Yes/No
Whether reportable:	Yes/No