



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

CRM-M-14239-2025

Date of decision: 20.03.2025

HARMANPREET SINGH ALIAS JOBAN

...PETITIONER

V/S

STATE OF PUNJAB

...RESPONDENT

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Mr. Sukhbir Maandi, Advocate for the petitioner.

Mr. Nitesh Sharma, DAG, Punjab.

HARPREET SINGH BRAR, J. (ORAL)

1. This is the third petition filed under Section 439 Cr.P.C. for grant of regular bail to the petitioner in case bearing FIR No.109 dated 28.07.2020 registered for the offences punishable under Section 302 of IPC (Sections 379-B (2), 202, 148, 149, 120-B IPC added later on) at Police Station Chohla Sahib, District Tarn Taran.

2. The second petition was dismissed as withdrawn on 11.03.2024, with direction to the trial court to expedite the proceedings and conclude the same preferable within a period of six months. Thereafter, all the remaining co-accused of petitioner were granted the concession of regular bail by this Court, the orders granting bails to co-accused are available on record as Annexure P-2 collectively.

3. The brief facts of the present case are that on 28.07.2020, the complainant-Balkar Singh got recorded his statement before the police to the effect that 27.07.2020, at about 8 PM, his elder son Jugraj Singh went outside for running and took his mobile phone along with him, the number of which is 98786- 38960. At about 9:00 PM, one Harmandeep Singh s/o Hardev Singh,



who studied along with his son Jugraj Singh came to his house and told him that when he was ploughing the land near the place of Gurudwara Shaheedan Sahib, at that time, Jugraj Singh passed from there, while chasing the persons, who had snatched his mobile phone and was saying to them to return his mobile phone. Later on, a search was made of Jugraj Singh but he could not be traced and his mobile phone was found to be switched off. On 28.07.2020, around 7:30 AM, the complainant along with co-villagers went for the search of his son Jugraj Singh, then they saw the dead body of his son in the paddy field of Swaran Singh s/o Shingara Singh and there was injury on his neck with sharp edged weapon and blood was oozing from his body. Hence, the FIR (*supra*) was registered.

4. Learned counsel for the petitioner *inter alia* contends that the petitioner is behind the bars since 13.05.2021 and has undergone actual custody period of 03 years, 10 months and 06 days. He further contends that PW-2, namely, Gurmej Singh has not supported the case of the prosecution and he has been declared hostile by learned Public Prosecutor. He submits that the petitioner has been nominated as accused, in the present case, after 09 months, on the basis of statement made by the aforementioned eye-witness i.e. Gurmej Singh. As such, the case set up by the prosecution is highly improbable. Further, the case of the petitioner is at par with co-accused, who has been granted the concession of regular bail by this Court vide order dated 20.01.2025 in case bearing **CRM-M No.53782 of 2024** titled as **Arshdeep Singh vs. State of Punjab** and the main accused, who is alleged to have given a *datar* blow on the neck of the deceased is Harmanpreet Singh. Learned



counsel further submits that till date, the prosecution has examined only 14 witnesses out of total 35 witnesses.

5. 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 petitioner on the ground that the petitioner along with other accused, played an active role in eliminating the deceased. However, he could not controvert the fact that similarly situated co-accused have been granted the concession of regular bail by this Court and that the petitioner is not involved in any other case.

6. 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.”



7. Having heard the learned counsel for the parties and after perusing the record of the case, it transpires that the petitioner is behind the bars since 13.05.2021 as per his custody certificate. 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 only 14 out of 35 prosecution witnesses have 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/petitioner. 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 of 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 petitioner-Harmanpreet Singh *alias* Joban is ordered to be released on regular bail during the pendency of the trial on furnishing bail bonds/surety bonds to the satisfaction of Illaqa Magistrate/Trial Court.

9. 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.

March 20, 2025
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(HARPREET SINGH BRAR)
JUDGE

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| (i) | Whether speaking/reasoned | Yes/No |
| (ii) | Whether reportable | Yes/No |