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

CRM-M-15877-2025

Date of decision: 07.07.2025

Chand Rathi

....Petitioner

Versus

State of Haryana

...Respondent

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Mr. Robin Hooda, Advocate
for the petitioner.

Mr. Vikas Bhardwaj, AAG, Haryana.

HARPREET SINGH BRAR, J. (ORAL)

The present petition has been filed under Section 528 of Bharatiya Nagarik Suraksha Sanhita, 2023 seeking regular bail in case bearing FIR No.324 dated 06.05.2022 under Sections 120-B/148/149/307/341 of IPC and Section 25 of Arms Act registered at Police Station Hansi City, Police District Hansi, District Hisar.

Succinctly, the facts of the case are that on 05.05.2022, the complainant was travelling in his Scorpio car bearing No. HR21P-8598 being driven by Amit Kumar and four other persons were accompanying him while they were going to village Sisai Bolan from Prem Nagar, Bhiwani. It is further alleged that when they reached near Sainipura flyover, a car coming from behind overtook the car of the complainant and the occupants of other car stopped their car. At the same time, another car stopped behind his car. From the car parked ahead, Parveen alias Bhola and Vishal who were having firearms in their hands and from the back car, 4-5 persons got down and started firing upon them with an intention to kill them. A bullet struck the right shoulder, left



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hand and left thigh of the complainant and his friends were also struck by bullets and thus, the instant FIR.

Learned counsel for the petitioner *inter alia* contends that the petitioner has been falsely implicated in the present case. The petitioner was not named in the FIR. Further, the injury regarding which Section 307 of IPC has been invoked is specifically attributed to co-accused, namely, Parveen @ Bhola and the petitioner has been nominated as an accused on the basis of disclosure statement made by co-accused during his custodial interrogation which has no evidentiary value in the eyes of law. He further submits that the petitioner has undergone substantial custody of almost 02 years 06 months and till date, the prosecution has only examined four witnesses out of 36.

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 petitioner on the ground that the complicity of the petitioner is duly established during investigation and injured witnesses have suffered fire arm shots in the present case. Further, the petitioner is involved in five more FIRs out of which, in one case under the Arms Act, he has been convicted. However, he could not controvert the fact that the petitioner has undergone actual custody of 02 years 05 months and 18 days as on 06.07.2025 and only four prosecution witnesses out of 36, have been examined so far.

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 petitioner is behind the bars since 19.01.2023. 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 04 out of 36 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.

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 petitioner in other cases would not be a ground to refuse grant of concession of regular bail.

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

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the trial, the petitioner-Chand Rathi is ordered to be released on regular bail during trial on his 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

07.07.2025*Neha*

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