



231

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

CRM-M-16939-2025

Date of decision: 02.04.2025

Gurjant Singh

....Petitioner

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Mr. N.K. Khepar, Advocate
for the petitioner.

Mr. Sandeep Kumar, DAG, Punjab.

HARPREET SINGH BRAR, J. (ORAL)

The present petition has been filed under Section 483 of Bharatiya
Nagarik Suraksha Sanhita, 2023 seeking regular bail in case bearing FIR
No.485 dated 03.11.2024 under Sections 115(2)/311/61(2) of BNS registered at
Police Station Zirakpur, District Mohali, Punjab.

Prosecution story set up in the present case as per the version in
the FIR reads as under:-

'Statement of Muhammad Umar, son of Tahir, resident of Village Samatal, Police Station Kotwali Muradabad, District Muradabad (UP), currently residing near Khalsa College, Chakkiwali Gali, Dayalpura, Police Station Zirakpur, District SAS Nagar, age 19 years, Mobile number 7060845532, stated that I am a resident of the aforementioned address and work in a palace doing cleaning. My paternal aunt's son, Ahmed Farman, son of Lahik Ahmed, along with his uncle Salman Khan, residents of Village Mahu Hartala, District Moradabad (UP), came to me about 4/5 days ago to do labour work. On 31.10.2024 at about 7:30 PM, Farman and Salman Khan went to Village Lohgarh from Village Dayalpura on a relative's scooter to attend a party at a relative's place. I also came to Zirakpur to clean in a palace. On 01.11.2024 at about 2:30 AM, I received a call from Ahmed Farman who said they were going from Lohgarh to Village Dayalpura. I told them that my work was also finished and I was coming home. He told me to wait for them at the turn near the Gurudwara Sahib in front of AKM Palace, on the road going to Village Lohgarh, and they would take me along. When I reached the turn near the Gurudwara Sahib in front of AKM Palace, on the road going to Village Lohgarh, they were coming from Village Lohgarh on the scooter. As I watched, a girl and two boys stopped them by placing their Activa in



front of them and started talking to Farman and Salman Khan. Then, these three people started beating and hitting Salman and Farman. One of the youths took out a knife and stabbed Farman on the neck, and the other youth took out a sharp weapon from his compartment and hit Salman Khan on the head. Both my relatives fell to the ground due to the injuries. These three people took Rs. 2,000/- from Salman's pocket and Rs. 1,000/- from Farman's pocket. I shouted loudly, and these three people fled the scene on their Airtel. I arranged for a vehicle and took Farman and Salman Khan to GMCH Sector 32 Chandigarh for treatment. They were discharged after treatment on 02.11.2024. I was busy with their treatment and could not get my statement recorded. I had seen all three perpetrators at the scene. I inquired on my own and found their names to be Mukesh Kumar, Gurjant Singh, and Sandeep Kaur. I can identify them if they come before me. Legal action should be taken against them. I have given my statement to you, and it is correct after hearing it. Signed: Umar Verified correct: Ravinder Singh ASI, Police Station Zirakpur, Date: 03.11.2024. Today I, ASI, along with SHO Onkar Singh/425 and PHG Ram Dev, were present at the gate of Police Station Zirakpur to patrol and check for bad and suspicious persons when Umar, son of Tahir, resident of Village Samatal, Police Station Kotwali Muradabad, District Muradabad (UP), currently residing near Khalsa College, Chakkiwali Gali, Dayalpura, Police Station Zirakpur, District SAS Nagar, came and gave his aforementioned statement to me. The statement was written word for word as narrated by the statement giver, and after reading it, he acknowledged it as correct and signed it in English. The statement was verified by me. Based on the statement giver's account, a crime under sections 115(2)/311/61(2) of BNS is found to have been committed. Therefore, this statement and crime against accused Mukesh Kumar, Gurjant Singh, and Sandeep Kaur is being sent by hand through PHG Ram Dev to the police station. An FIR should be registered, and the file number should be informed. The control room in-charge should be informed via wireless message. Special reports should be issued. I, ASI alongwith fellow officers, proceeding to the scene of the incident as per the statement of the Complainant. Signed: Ravinder Singh ASI, Police Station Zirakpur, Date: 03.11.2024, Boundary: Gate of Police Station Zirakpur, Time: 2:30 PM. Upon arrival, the aforementioned case number was registered against the aforementioned accused and the police station records were completed. Copies of the FIR are being sent to the area magistrate and senior officers via post. The control room in-charge and senior officers were informed via telephone. Copies of the FIR along with the original statement were handed over to PHG Ram Dev for investigation and sent to Ravinder Singh, Police Station Zirakpur.'

Learned counsel for the petitioner *inter alia* contends that the petitioner has been falsely implicated in the present case on the basis of suspicion and all the offences under which the FIR (*supra*) was registered are bailable in nature except Section 311 of BNS. Further, there is no medical record regarding the injuries mentioned in the FIR (*supra*) and the injuries



suffered by the complainant are simple in nature. The facts have been twisted in order to aggravate the offence, transforming it into a case of snatching. Additionally, a compromise (Annexure P-3) has been effected between the accused and the complainant and similarly situated co-accused, namely, Mukesh, has been granted the concession of anticipatory bail vide order dated 01.04.2025 passed by this Court in CRM-M-15004-2025 titled as 'Mukesh Kumar Vs. State of Punjab'.

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 petitioner has been specifically named in the FIR (*supra*) and the offence under Section 311 of BNS is non-compoundable. He further submits that the petitioner is involved in two more cases and as such, does not deserve any relief.

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 01.01.2025. 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 out of 10 prosecution witnesses, none has 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 the trial, the petitioner-Gurjant Singh 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

02.04.2025
Neha

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