



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

**CRM-M-17584-2025 (O & M)
Date of decision: 04.04.2025**

ATUL SHARMA

...PETITIONER

V/S

STATE OF PUNJAB

...RESPONDENT

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Ms. Riffi Birla, Advocate
for the petitioner.

Mr. Nitesh Sharma, DAG, Punjab.

HARPREET SINGH BRAR, J. (ORAL)

CRM-13250-2025

Allowed as prayed for.

MAIN CASE

1. This is the first petition filed under Section 439 Cr.P.C. for grant of regular bail to the petitioner in case bearing FIR No.171 dated 09.09.2024 under Sections 307, 3(5) of BNS, 2023 (Section 317(2) BNS added later on) registered at Police Station Focal Point, District Police Commissionerate (Annexure P-1).

2. Brief facts of the present case are that complainant Om Parkash Kumar stated that on 07.09.2024 at about 6:30 PM, when he reached few distance behind his factory, two persons came on Black Activa and stopped near him and alighted therefrom, out of them, one person was clean shaven having fair complexion and was armed with iron rod. They both were calling each other by name of Rahul and Atul (petitioner herein). Petitioner-Atul gave



rod blow on the neck of the complainant and second person namely Rahul snatched his mobile phone Mark Oppo, Golden Colour, Model 838 from his pocket, wallet of black colour, containing notes of Rs.5,000/-, his Adhar Card bearing No.962938180504 and other documents from left pocket of his trouser. Thereafter, both the accused gave fist blows to the complainant and threatened to kill him and fled away from the spot. Hence, the FIR (*supra*) was registered.

3. Learned counsel for the petitioner, *inter alia*, contends that the petitioner has been falsely implicated by twisting the facts and the allegations have been manipulated to aggravate the offence, only to make it a non-bailable offence. She further contends that the case set up by the prosecution is highly improbable. She submits that the petitioner is not involved in any other case and is having clean antecedents and the case is triable by the Magistrate. Further, the investigating agency has already concluded the investigation. Furthermore, the recovery memos prepared by the investigating officer do not bear the signatures of the petitioner, as such, it has no evidentiary value in the eyes of law. The petitioner is behind the bars since 13.09.2024.

4. Learned State counsel produces the custody certificate of the petitioner, which is taken on record and *per contra*, opposes the prayer of the petitioner on the ground that the complicity of the petitioner is duly proved on record and he is not entitled to any relief keeping in view the serious and specific allegations levelled against him. However, he could not controvert the fact that the petitioner is not involved in any other case.



5. 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.”

6. Having heard learned counsel for the parties and after perusing the record of the case, it transpires that the petitioner is behind the bar since 13.09.2024. Investigation is complete. The final report under Section 173 Cr.P.C. was presented before the concerned Court. 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.

7. 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-Atul Sharma 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.

8. 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.

April 04, 2025
manisha

(HARPREET SINGH BRAR)
JUDGE

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