



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

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CRM-M-18814-2025 (O&M)
Date of decision: 21.04.2025

Ashwani Kumar

....Petitioner

Versus

State of Haryana

....Respondent

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Mr. B.S. Chahal, Advocate
with Ms. Madhu Jangra, Advocate
and Ms. Richa Sharma, Advocate
for the petitioner.

Mr. Ramesh Kumar Ambavta, AAG, Haryana.

HARPREET SINGH BRAR J. (Oral)

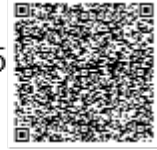
1. Prayer in this petition filed under Section 483 of the BNSS, 2023, is for grant of regular bail to the petitioner in FIR No.435 dated 15.11.2024 registered under Sections 110, 115(2), 191(2) and 190 of BNS, 2023 (wrongly mentioned as BNSS) at Police Station Rewari City, District Rewari.
2. The brief facts of the case are that on 15.11.2024 at about 2:30 AM, the police party headed by ASI Hawa Singh, while on patrolling duty at Naiwali Chowk, received a call via helpline No.112 about a quarrel in Gujjarwada Mohalla in which a person named Deepanshu alias Massi had sustained injuries and was admitted to Trauma Centre, Rewari. The police reached the hospital, collected the medico-legal report (MLR), which recorded 04 injuries on the person of the victim. Later on, after the doctor declared the victim fit for making a



statement, Deepanshu reported that on 14.11.2024, he and his friend Vishal alias Monu were returning from a function in a Breeza car when they reached near Rewari Bus Stand, they were chased and stopped by three vehicles and around 10–12 men armed with lathis and dandas, including Naveen, Sunil, Ajay alias Ajju, Mukesh, Dhiraj Jangra, and Rahul Sehrawat, attacked him. Deepanshu fell while trying to escape, and the injuries were caused to him by Naveen, Mukesh, Ajay, and Dhiraj. The assailants had prior enmity with Vishal's family, and the attack was allegedly made with an intenttioin to kill. Vishal later called the ambulance and got Deepanshu admitted to the hospital. On the basis of the said statement, the impugned FIR was registered under Sections 191(2), 190, 115(2), and 110 of BNS, 2023.

3. Learned counsel for the petitioner *inter alia* contends that 06 persons have been nominated as accused in the FIR (supra), however, the petitioner was not named in the FIR and he has been nominated as an accused on the basis of the disclosure statement made by co-accused Dhiraj during his custodial interrogation, which has no evidentiary value in the eyes of law as the same is hit by Section 25 of the Evidence Act. Further as per the case set up by the prosecution, the petitioner is not attributed any injury. The investigation is complete and the petitioner is not involved in any other case.

4. Learned counsel for the petitioner further submits that there are total 17 prosecution witnesses cited in the list of witnesses, out of which, none has been examined till date and the trial is likely to take long time in conclusion.



5. *Per contra*, learned State counsel has filed custody certificate today in the Court which is taken on record and he opposes the prayer made by learned counsel for the petitioner on the ground that the identity of the petitioner has been duly established on the basis of the CCTV footage of the alleged incident and the petitioner was present at the spot and he is also one of the assailant, as such he is not entitled for any relief, however, he could not controvert the fact that the petitioner is not involved in any other case.

6. Having heard learned counsel for the parties and after perusing the record of the case, it transpires that the petitioner is behind the bars from the last 04 months and 05 days. Investigation is complete. The final report under Section 173 Cr.P.C. was presented before the concerned Court. Charges are yet to be framed and trial of the case has not made much progress.

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:

"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 the culpability, if any, would be determined at the time of trial and as such, no useful purpose will be served by further detention of the petitioner-accused. 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.

9. In view the discussion above, the present petition is allowed. Accordingly, without commenting upon the merits of the case, the petitioner namely Ashwani Kumar, is ordered to be released on regular bail during pendency of the trial, on his furnishing bail bonds/surety bonds to the satisfaction of Illaqa Magistrate/Trial Court/Duty Magistrate.

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

21.04.2025

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Whether speaking/reasoned: Yes/No

Whether reportable: Yes/No