



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

235

CRM-M-20942-2025 (O&M)

Date of decision: 28.04.2025

Vishal @ Vijay

....Petitioner

Versus

State of Punjab

....Respondent

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Mr. Jagjit Singh, Advocate
for the petitioner.

Mr. Nitesh Sharma, DAG, Punjab.

HARPREET SINGH BRAR J. (Oral)

1. Prayer in this 2nd petition filed under Section 483 of the BNSS, 2023, is for grant of regular bail to the petitioner in FIR No.115 dated 15.10.2022 registered under Sections 307, 324, 323, 353, 186, 148, 149 of IPC (Sections 325, 326 IPC have been added later on vide DDR No.018 dated 11.11.2022 and Section 302 IPC has been added later on vide DDR No.018 dated 22.01.2023 and Section 201 IPC has been added vide DDR No.11 dated 07.02.2023) at Police Station Sadar Kapurthala, District Kapurthala.

2. The 1st petition seeking regular bail to the petitioner was dismissed as withdrawn on 07.02.2024 and this 2nd petition has been filed with the changed circumstances as the similarly situated co-accused of the petitioner namely Gurpreet Singh @ Gill has been



granted the concession of regular bail by this Court vide order dated 08.04.2025 passed in CRM-M No.18172 of 2025.

3. The FIR (supra) was registered on the statement of Navdeep Singh, who stated that on 15.10.2022, at about 10.00 AM when he was present at his home, his friend Parminder Singh (deceased) who was serving in the CIA Staff Kapurthala gave him (complainant) a phone call stating that he was going from CIA staff Kapurthala towards village Talwandi Mehma in civil dress in a Swift car in connection with some secret duty. When he (Parminder Singh) arrived near Talwandi Mehma, a bus with three passengers was found present at the village and a car make i-20, in which one youngster and one lady were travelling, were trying to overtake him (Parminder Singh). However, they suddenly crossed his (Parminder Singh's) car and a hot exchange of words took place. Thereafter, he (complainant) along with his friend Manpreet Singh arrived at the said village to help their friend Parminder Singh. They found Vinay Kumar son of Harbans Lal, Mani @ Fauji son of Malkit and Akwinder Kaur wife of Vinay Kumar along with Kalu son of Subhash, Pawandeep @ Happy son of Hansa, Lucky son of Bagga, Ajay son of Kalu, Vishal son of Nandu Ram and 10-12 other persons arguing with Parminder Singh. Then in his (complainant's) presence Vinay Kumar gave a blow with a base ball bat on the head of Parminder Singh with a motive to kill him. The other co-accused also attacked Parminder Singh with their sharp edged weapons, base ball bats, brick stones etc. Vishal gave 2-3 blows of a brick stone on the head of



Parminder Singh with a motive to kill him, which resulted in Parminder Singh collapsing on the ground. While he (Parminder Singh) was lying on the ground the assailants kept on assaulting him. When he (complainant) and his friend Manpreet Singh tried to rescue Parminder Singh, the accused caused injuries to Manpreet Singh as well. Mani @ Fauji gave a blow of his dattar on the rear portion of his (complainant's) head. The other accused also inflicted injuries upon him (complainant). On an alarm being raised, the assailants fled away from the spot. The motive for the occurrence was that Vinay Kumar in connivance with the other persons caused obstruction in the performing of official duties by Parminder Singh.

4. Learned counsel for the petitioner *inter alia* contends that the alleged incident has taken place due to a road rage. The complainant and deceased being police officials have implicated the petitioner along with other co-accused. As many as 04 persons including the present petitioner are alleged to have given blunt injuries on the person of deceased with their respective weapons. Initially, the deceased was relieved from the hospital in a stable condition on 12.01.2023, however, he had died on 22.01.2023 i.e. almost 03 months after the alleged incident. Further it is not forthcoming from the case set up by the prosecution, who has caused injury No.2.

5. Learned counsel for the petitioner refers to the injuries suffered by the deceased and the same are mentioned as follows:

“Injury No.1: Severe traumatic head injury (case of assault). On examination, Patient was



deeply unconscious with GCS E1V1M2 pupil unequal left side larger than right. CT shows acute left frontol-temporal parietal SDH with massive cerebral edema with mass effect with midline shift (CT scan report attached).

Injury No.2: Right parietal 7 cm lacerated would with bleeding with underline right parietal fracture (sutured in emergency).

Injury No.3: Lacerated would appx. 3cmx1cmx0.5cm over right tibial tuberosity region horizontally oriented with sharp bony cut palpable with no crepitus or unnatural mobility. X-ray S/o unicortical fracture right proximal tibia.

Injury No.4. Approx 2cmx0.5cmx0.5cm lacerated would over left ulnar aspect of forearm about 15 cm from olecranon.

Injury No.5. Circular abrasion 1cmx1cm present over right lateral malleolar region.”

6. Learned counsel further contends that in fact only one injury on the head of the deceased has been found i.e. injury No.2. Injury No.1 is result of injury No.2, which caused massive cerebral edema. Furthermore, the similarly situated co-accused of the petitioner namely Gurpreet Singh @ Gill has been granted the concession of regular bail by this Court vide order dated 08.04.2025 passed in CRM-M No.18172 of 2025. He further submits that the petitioner is in custody from the last more than 02 years and 03 months and there are total 34 prosecution witnesses cited in the list of witnesses, out of which, 02



PWs have been partly examined till date and the trial is likely to take long time in conclusion.

7. *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 petitioner has played an active role in commission of alleged offence and his complicity is duly proved, however, he could not controvert the fact that the petitioner is not involved in any other case.

8. 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 02 years, 03 months and 19 days. Investigation is complete. The final report under Section 173 Cr.P.C. was presented before the concerned Court. Charges were framed and trial of the case has not made much progress. Out of 34 prosecution witnesses, 02 PWs have been partly examined so far.

9. 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.”

10. 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.

11. In view the discussion above, the present petition is allowed. Accordingly, without commenting upon the merits of the case, the petitioner namely Vishal @ Vijay 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.

12. 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

28.04.2025

yakub

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