



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

CRM-M-25225-2025
Date of decision: 14.05.2025

Vinay KumarPetitioner

Versus

State of Punjab ...Respondent

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Ms. Renu Arora, Advocate
for the petitioner (through V.C.).

Mr. Sandeep Kumar, DAG, Punjab.

HARPREET SINGH BRAR, J. (ORAL)

This second petition has been filed under Section 483 of Bharatiya Nagarik Suraksha Sanhita, 2023 seeking regular bail in case bearing FIR No.115 dated 15.10.2022 under Sections 307/324/323/353/186/148/149 of IPC registered at Police Station Sadar, District Kapurthala (Sections 325/326 of IPC were added later on vide DDR No.018 dated 11.11.2022) (further, Section 302 of IPC was added vide DDR No.018 dated 22.01.2023 and Section 201 of IPC was added vide DDR No.011 dated 07.02.2023). Earlier petition was dismissed for non-prosecution vide order dated 08.08.2024.

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



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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 (the petitioner herein) 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.

Learned counsel for the petitioner submits that this petition has been filed with the change of circumstances as similarly situated co-accused,



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namely, Gurpreet Singh @ Gill and Vishal @ Vijay, have been granted the concession of regular bail by this Court vide order dated 08.04.2025 passed in CRM-M-18172-2025 titled as 'Gurpreet Singh @ Gill Vs. State of Punjab' and order dated 28.04.2025 passed in CRM-M-20942-2025 titled as 'Vishal @ Vijay Vs. State of Punjab' (Annexures P-10 & P-11, respectively).

Learned counsel for the petitioner *inter alia* contends that the incident which occurred on 15.10.2022 was a result of road rage. As per the case set up by the prosecution in the FIR, the petitioner is one of the assailants and it was alleged in the FIR that the petitioner has given baseball bat blow on the head of the deceased. Further, the complainant made a supplementary statement and other persons were nominated and the initial case set up by the prosecution was changed in the supplementary statement and according to the changed version, petitioner along with co-accused, Deepak Sahota, Gurpreet Singh @ Gill and Vishal @ Vijay, have given injuries on the head of the deceased with their respective weapons.

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 wound with bleeding with underline right parietal fracture (sutured in emergency).

Injury No. 3: Lacerated wound 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 wound over left ulnar aspect of forearm about 15 cm from olecranon.



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

Learned counsel further contends that in fact only one injury on the head has been found i.e. injury No.2. Injury No.1 is result of injury No.2, which caused *massive cerebral edema*. Initially, the deceased was released from the hospital in a stable condition on 12.01.2023 and he had died on 22.01.2023, i.e. almost 03 months after the alleged incident. Further, it is a not forthcoming from the case of prosecution that injury No.2 has been caused by which of the accused. As many as 04 persons including the present petitioner are alleged to have given injuries on the head of the deceased with their respective blunt weapons. Further, the petitioner has suffered the incarceration of 02 years, 03 months and 06 days and out of 34, only 02 prosecution witnesses have been partially examined so far.

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 brother of the deceased has produced the video footage of the incident and petitioner was found present at the spot, and he has actively participated in the alleged incident and as such, his complicity is duly proved on record. Therefore, he does not deserve any leniency by this Court. However, learned State counsel could not controvert the fact that petitioner has undergone custody of 02 years 03 months and 06 days as on 13.05.2025 and he is not involved in any other case.

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 06 days. Out of total 34 prosecution witnesses, not



even a single prosecution witness has been examined completely. However, examination-in-chief of 02 PWs have been recorded. Therefore, conclusion of trial shall take considerable long time.

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.”

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.

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

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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

14.05.2025*Neha*

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