



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

CRM-M-27071-2025
Date of decision: 22.05.2025

RAJU

...PETITIONER

V/S

STATE OF HARYANA

...RESPONDENT

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Mr. Sumeet Singh Brar, Advocate for the petitioner.

Mr. Vikas Bhardwaj, AAG, Haryana.

HARPREET SINGH BRAR, J. (ORAL)

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.120 dated 29.04.2022, registered for the offences punishable under Sections 302/201/147/148/149 of IPC and Section 25 of Arms Act at Police Station Kalanwali, District Sirsa.

2. The brief facts of the present case are that on 29.04.2022 at about 5:00 PM, when the complainant's mother was coming from the house of neighbourers and came near the gate, due to some property dispute, Rani, her husband Pappu, her son Nikka Singh and two other young persons, whose faces were covered, in connivance with each other attacked upon her with their respective weapons i.e. *kirpan*, *kulhari* and pistol and gave injuries to her on various parts of body and neck of mother of the complainant was separated from the body and she died on the spot. Hence, the FIR (*supra*) was registered.

3. Learned counsel for the petitioner *inter alia* contends that perusal of the case set up by the prosecution indicates that the petitioner has played no specific role in the alleged incident. He further contends that no any specific



injury has been attributed to the petitioner during the investigation and he has been implicated in the present case on the basis of disclosure statement made by co-accused Jaswinder Singh, while being in police custody. Learned counsel submits that as per the case set up by the prosecution, the allegation against the petitioner is that he had caught hold of deceased and other co-accused inflicted injuries. He further submits that the petitioner is behind the bars since 24.06.2022 and almost three years have passed, the prosecution has failed to conclude its evidence, rather, the complainant is not coming forward to depose as prosecution witness and her bailable warrants have been issued vide order dated 09.05.2025.

4. 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 played active role in commission of the murder of deceased as he caught hold of the deceased while other accused committed murder of the deceased with deadly weapons. However, he could not controvert the fact that the petitioner has undergone a total custody period of almost 03 years and is not involved in any other case. Further, out of total 28 prosecution witnesses, only 04 have been examined till date.

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 the learned counsel for the parties and after perusing the record of the case, it transpires that the petitioner is behind the bars since 26.06.2022 as per his custody certificate. 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 only 04 out of 28 prosecution witnesses have 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.

7. In view of the above facts and circumstances and also keeping in view the fact that the co-accused has been granted the concession of regular bail, 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-Raju 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.

May 22, 2025
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(HARPREET SINGH BRAR)
JUDGE

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