



IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

207

CRM-M No.31231 of 2024
Date of decision: 31.01.2025

Gurbaksh Singh @ Judge

....Petitioner

Versus

State of Punjab and another

....Respondents

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Mr. Amit Dhawan, Advocate
for the petitioner.

Mr. Rishabh Singla, AAG, Punjab.

Mr. Mandeep Kumar, Advocate
for Mr. P.S. Bedi, Advocate for respondent No.2.

HARPREET SINGH BRAR J. (Oral)

1. Prayer in this petition filed under Section 439 Cr.P.C., is for grant of regular bail to the petitioner in FIR No.10 dated 31.01.2024 registered under Sections 307, 34 IPC and Section 25/54/59 of the Arms Act, 1959 at Police Station Lohian, District Jalandhar (Rural).

2. The brief facts of the case are that the FIR (supra) has been registered on the basis of statement made by Rahul Chawla @ Sunny. He submitted that he is doing the work of tiles and he has two brothers namely Varinder Kumar and Gaurav Chawla and one sister namely Rajni. He is married to Raj Rani daughter of Gurmit Singh and has two sons and one daughter out of the wedlock. He alongwith his family had come a week ago from Ludhiana to his village Nihaluwal. On 30.1.2024 at about 4:30 p.m, he had gone to the play ground of his village for

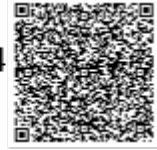
2025:PHHC:014694



roaming and when he reached near the play ground, then Akashdeep s/o Jarnail Singh @ Billu, resident of village Nihaluwal, Gurbaksh Singh @ Judge s/o Late Sukhdev Singh, resident of village Sichewal and Sukhpreet Singh @ Sukh s/o Late Swaran Singh came there on one motor cycle and they stopped their motor cycle near him. Then, Sukhpreet Singh @ Sukh abused him and called him and in the meantime Akashdeep and Gurbaksh Singh @ Judge also alighted from the motor cycle and came to him. Sukhpreet Singh @ Sukh caught hold him from his neck and then he took out pistol and with the intention to kill him, fired at him and the bullet hit in his stomach. Thereafter, he again tried to fire from his pistol, but it did not fire and then Gurbaksh Singh @ Judge took out pistol and aimed at him, but he raised hue and cry and on seeing the people coming from the village, all of them alongwith their weapons fled away from the spot on their motor cycle. His brother Gaurav Chawla and father Ashok Kumar arranged a vehicle and took him to Civil Hospital, Nakodar in the injured condition.

3. Learned counsel for the petitioner *inter alia* contends that the petitioner has been falsely implicated in the present case and he has not been attributed any injury on the complainant and the petitioner is behind the bars since 01.02.2024. He submits that even as per the case set up by the prosecution, the petitioner was merely present at the time of alleged incident and it would be a moot point to be decided during the course of trial as to whether the petitioner could be held liable for the offence under Section 307 IPC with the aid of Section 34 IPC.

2025:PHHC:014694



4. Learned counsel for the petitioner further submits that there are total 26 prosecution witnesses cited in the list of witnesses, out of which, 02 PWs have been examined till date and the trial is likely to take long time in conclusion.

5. Learned counsel for respondent No.2 submits that a compromise has been effected between the parties and he has no objection, in case the petitioner is granted the concession of regular bail.

6. *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 actively participated in the conspiracy and one pistol was recovered from his possession, however, he could not controvert the fact that the petitioner is not involved in any other case and no injury has been attributed to him.

7. 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 11 months and 26 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 26 prosecution witnesses, 02 PWs have been examined so far.

8. 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:

2025:PHHC:014694



“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.”

9. 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.

10. In view the discussion above, the present petition is allowed. Accordingly, without commenting upon the merits of the case, the petitioner namely Gurbaksh Singh @ Judge 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.

2025:PHHC:014694



11. 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

31.01.2025
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Whether speaking/reasoned:	Yes/No
Whether reportable:	Yes/No