



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

**CRM-M-32195-2024
Date of decision: 17.01.2025**

SUKHWINDER SINGH ALIAS GHUDDU ALIAS KUDDU

...PETITIONER

V/S

STATE OF PUNJAB

...RESPONDENT

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Mr. Ripudaman Singh Sidhu, Advocate
for the petitioner (through video conferencing).

Mr. Sandeep Kumar, DAG, Punjab.

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.295 dated 20.11.2019 registered under Sections 307/34 of IPC and Sections 25/27, 54 and 59 of Arms Act, 1959 at Police Station City Tarn Taran, District Tarn Taran (Annexure P-1).
2. The FIR (*supra*) was registered on the statement made by Daljit Singh (complainant) to the effect that on 16.11.2019, he was sitting in the balcony of his house with his nephew Surinderpal Singh, son of Mangal Singh. The son of the complainant, namely, Jagandeep Singh went to Tarn Taran city on his motorcycle. At around 8:00 PM, when Jagandeep Singh returned and was parking his motorcycle at the gate of the house, four unidentified young men arrived on two motorcycles. One of them took out a pistol and fired at him, with the intention to kill. Fortunately, he managed to run inside and save his life. The assailants fled from the spot on their motorcycles.



3. Learned counsel for the petitioner *inter alia* contends that as per the case set up by the prosecution, co-accused, namely, Baljit Singh *alias* Buli is alleged to have fired upon the son of the complainant and the petitioner was not named in the FIR (*supra*). Learned counsel submits that the main accused Baljit Singh *alias* Bulli and co-accused Krishan *alias* Kishan Singh have already been granted the concession of regular bail by this Court in case bearing CRM-M Nos.4899 and 463 of 2024 decided on 01.03.2024 and 24.04.2024 respectively (Annexures P-2 and P-3). Learned counsel further submits that the case of the petitioner is at par with the co-accused and this Court, after relying upon the judgment of the Hon'ble Apex Court in ***Maulana Mohd. Amir Rashadi Vs. State of U.P. and Others 2012(2) SCC 382*** and ***Prabhakar Tiwari Vs. State of UP and Anr. 2020(1) RCR (Criminal) 831***, has granted the concession of regular bail to the accused in spite of the fact that they are involved in other cases. Furthermore, no offence under Section 307 of IPC is made out as it is a case of no injury and the petitioner has undergone a total custody of more than 03 years and 07 months and the trial of the case has not made much progress.

4. Learned State counsel produces the custody certificate, which is taken on record and *per contra*, opposes the grant of regular bail to the petitioner on the ground that delay in trial is on account of absence of co-accused Krishan *alias* Kishan Singh and the petitioner is involved in 11 more cases. As such, he is not entitled to any relief.

5. Having heard learned counsel for the parties and after perusing the record of the case with their able assistance, it transpires that the petitioner is behind the bars since 13.05.2021 and has suffered an incarceration of 03 years, 07 months and 29 days, including remission, as on 16.01.2025, as per his



custody certificate. The investigating agency has already concluded the investigation and has submitted the final report under Section 173 Cr.P.C. The trial of the case has not made any progress as out of 18 prosecution witnesses, only 01 has been examined so far. The culpability, if any, would be determined at the time of trial. 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.

6. 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."

7. In view of the ratio of law laid down by Hon'ble Supreme Court in **Prabhakar Tiwari Vs. State of UP and Anr.** 2020(1) RCR (Criminal) 831 and **Maulana Mohd. Amir Rashadi Vs. State of U.P. and Others** 2012(2) SCC 382, the involvement of accused in other criminal cases cannot be the sole ground to deny him the concession of bail.



8. In view of the above, the present petition is allowed and the petitioner-Sukhwinder Singh *alias* Ghuddu *alias* Kuddu is ordered to be released on regular bail during trial on his furnishing bail bonds/surety bonds to the satisfaction of Illaqa Magistrate/Trial Court.

9. Nothing observed hereinabove shall be construed to be an expression of opinion by this Court lest it may prejudice the trial. The learned trial Court is directed to proceed with the trial on its own merits, strictly in accordance with law.

January 17, 2025
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(HARPREET SINGH BRAR)
JUDGE

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