

**CRM-M-32281-2024 (O&M)****1****214****IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH****CRM-M-32281-2024 (O&M)****Date of Decision: 30.04.2025****ASIF****...PETITIONER****Versus****STATE OF HARYANA****...RESPONDENT****CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR**

Present: Mr. Ravinder Kumar Rana, Advocate
for the petitioner.

Ms. Geeta Sharma, DAG Haryana.

*********Harpreet Singh Brar, J. (Oral)**

1. This is the second petition filed under Section 439 of Cr.P.C. seeking grant of regular bail to the petitioner in case bearing FIR No. 223 dated 21.12.2020 registered under Sections 147, 148, 149, 307, 323, 379-B, 427 and 506 of Indian Penal Code at Police Station Sohna, District Gurugram.

2. Facts of the FIR(supra) are that on 20.12.2020, a VT was received in Police Station Sadar, Sohna from Control Room, Gurugram to the effect that Imtiyaz, Ex. Sarpanch of village Nunera informed that he received shot and occurrence had taken place near village Sancholi with Delhi Party. On this information, SI Satinder Singh along with other police officials reached Sancholi Farm where many public persons inside and outside were present and some people were breaking the panes of vehicles, their windows, bumper by using axes and *lathis*. On seeing the police coming towards the spot, they succeeded in fleeing away from there. After inspecting the spot and coming more force, the injured were got shifted through Government Gypsy and PCR to General Hospital, Sohna and after providing first aid to the injured Ravinder,

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Vishal Chauhan, Sachin, Paras, Aakash, Gaurav, Robin, Smt. Sakshi Bahal, Ansh, Sandeep and conducting their Medicolegal examination, they were referred to General Hospital, Gurugram. Sub-Inspector Satinder Singh along with injured persons departed to General Hospital, Gurugram. On reaching near Subhash Chowk, Gurugram, on the request of injured persons, they had gone to Medanta Hospital, Gurugram, where Priyanka Bahl presented a written complaint *inter alia* alleging therein that on 20.12.2020, she along with her mother Smt. Sakshi Bahl and brother Ansh Bahl went over piece of land in Sancholi in the morning for inspection of making a cricket ground there. There they met Imtiaz Ali who started abusing, assaulting (physically) threatening them that he will kill them if they don't leave their farm. In the meantime, she contacted her husband and narrated the entire incident to him. After hearing the incident, her husband came with his brothers there and tried to talk to Imtiaz Ali to vacate the land and requested him to go away from there. In retraction to this, Imtiaz Ali got more aggressive and started abusing them and fighting and thereafter, he called about 100 people in his support. All those people covered them and blocked the entire road and started beating them brutally in order to kill them, which caused serious injuries to all of them. The goons that he had called, were very well equipped with guns, sharp edged iron rods, knives, big stones, which they used to beat them brutally in order to kill them. They had beaten all of them on their head in order to kill them and cripples them. They destroyed all their cars completely and looted all the valuables which were kept in the car and they also looted all the ornaments which she and her mother were wearing. They called at 100 number and after that four constables came. In spite of the police being there, the goons did not stop beating them. After that police force was called, but unable to handle this situation. Eventually they saved their lives



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running into the police vans and still the goons followed the van and were trying to harm them in front of the police. This is a mere case of capturing land, attempt to murder, threateningly and physically assault to all the ladies and blocking the road so they could not save themselves. They have been severely injured and almost dead. Thereafter, the FIR(supra) was registered.

3. Learned counsel for the petitioner *inter alia* contends that petitioner has not been named in the FIR(supra). Further, no specific role or injury has been attributed to the petitioner and he was granted the concession of regular bail by learned Additional Sessions Judge, Gurugram on 23.03.2021. Thereafter, he continued to appear before the learned trial Court, however, on 04.01.2023, due to some roadside accident, the petitioner could not attend the proceedings before the learned trial Court and his bail bonds were cancelled and he is behind the bars since 20.07.2023 and till date he has undergone incarceration of almost 02 years and out of total 42 Pws, only 08 have been examined till date.

4. Learned State counsel produces the custody certificate of the petitioner, which is taken on record and *per contra*, opposes the prayer made by the petitioner on the ground that complicity of the petitioner is duly established during investigation and the petitioner the facing the trial in 13 more cases. As such, he is not entitled to any leniency by this Court.

5. 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 01 year 11 months and 24 days as on 29.04.2025 and only 08 Pws, out of total 42 Pws have been examined till date. Thus, conclusion of trial will take considerable long time.



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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. 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.

9. In view the discussion above, the present petition is allowed. Accordingly, without commenting upon the merits of the case, the petitioner-Asif is ordered to be released on regular bail during pendency of the trial, on

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furnishing bail bonds/surety bonds to the satisfaction of Illaqa Magistrate/Trial Court/Duty Magistrate.

10. 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

30.04.2025

Ajay Goswami

Whether speaking/reasoned
Whether reportable

Yes/No
Yes/No