



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

222

CRM-M-41920-2024 (O&M)

Date of decision: 24.03.2025

Lakhwinder Singh @ Lakhu

....Petitioner

Versus

State of Punjab

....Respondent

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Mr. Kulwinder Singh, Advocate
for the petitioner.

Mr. Sandeep Kumar, DAG, Punjab.

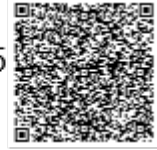
HARPREET SINGH BRAR J. (Oral)

1. Prayer in this petition filed under Section 439 Cr.P.C., is for grant of regular bail to the petitioner in FIR No.11 dated 05.01.2020 registered under Sections 323, 341, 148, 149, 506 IPC (Section 325 IPC added later on) at Police Station City-2, Mansa, District Mansa.
2. The brief facts of the case are that on 03.01.2020, at about 8:30 p.m., the complainant was standing outside his house when Lakhwinder Singh (petitioner herein) came on his motorcycle and asked him to come along with him to get some materials from a shop. The complainant agreed, and they were joined by Raju Singh, the complainant's friend. On the way, Lakhwinder Singh suggested that they first go for a ride to the canal bridge on Chakarian Road. When they reached the bridge at about 09:00 p.m., they were surrounded by a group of armed individuals, including Sandeep Singh (Tattu), Bhathal,



Sharma, Pappu, and five other unknown persons. As the complainant and Raju tried to get off the motorcycle, Bhathal threatened them. Sandeep Singh struck the complainant on the left arm with a baseball bat. Bhathal then hit the complainant on his right knee, causing him to fall. While this was happening, the other members of the group attacked Raju. Sharma hit the complainant on his left ear with a stick, and Pappu hit him with a brick on his left arm. The complainant shouted for help, and his friends, Lakhwinder Singh and Jatinder Singh, arrived at the spot. However, the group continued to beat them. The complainant has apprehension that Lakhwinder Singh (petitioner) had brought him there with the intention of causing him injuries, as he also joined in the attack. Thereafter, the FIR (supra) was registered.

3. Learned counsel for the petitioner *inter alia* contends that the petitioner has been falsely implicated in the FIR (supra) and no specific injury with specific weapon has been attributed to the petitioner. He further submits that the allegation against the petitioner is that he gave beatings to the complainant and his friend Raju. Initially the petitioner was granted the concession of regular bail and he has been appearing regularly before the learned trial Court, however, due to his non-appearance during the COVID-19 period, his bail/surety bonds were cancelled on 19.04.2022 and on 04.03.2024, he was declared as proclaimed person. The petitioner, thereafter, surrendered before the learned Chief Judicial Magistrate on 06.03.2024 and the petitioner is in custody from the last 01 year and 17 days.



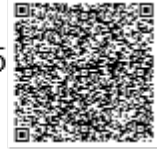
4. Learned counsel for the petitioner further submits that there are total 17 prosecution witnesses cited in the list of witnesses, out of which, none has been examined till date and the trial is likely to take long time in conclusion.

5. *Per contra*, learned State counsel has filed custody certificate of the petitioner 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 remained absent for almost 03 years and he was declared as proclaimed person on 04.03.2024 and he is also involved in one case registered under the NDPS Act, however, he could not controvert the fact that the petitioner himself surrendered before the learned Chief Judicial Magistrate on 06.03.2024 and is in custody since then.

6. 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 and 17 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 17 prosecution witnesses, none has been examined so far.

7. 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:

"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.”

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 namely Lakhwinder Singh @ Lakhu 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.

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

24.03.2025
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Whether speaking/reasoned:	Yes/No
Whether reportable:	Yes/No