



**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**
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CRM-M-42128-2024 (O&M)
Date of decision: 02.05.2025

Jai Parkash
.....Petitioner
Versus
State of Haryana
.....Respondent

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Mr. Rakesh Nehra, Sr. Advocate
with Mr. Arjun Yadav, Advocate
and Mr. Sahil Nehra, Advocate
for the petitioner.

Mr. Vikas Bhardwaj, AAG, Haryana.

HARPREET SINGH BRAR J. (Oral)

1. Prayer in this petition filed under Section 439 of Cr.P.C., is for grant of regular bail to the petitioner in FIR No.170 dated 30.04.2024 registered under Sections 279, 337, 338, 304-A and 427 IPC (Sections 279, 337 and 304-A IPC stands deleted and Sections 193, 202, 304-II, 120-B of IPC added later on) at Police Station Central, District Faridabad.
2. The brief facts of the case are that the complainant Pankaj Kumar Vats stated that on 29.04.2024 his nephew Dayanand Vats was going on his scooty towards Town Park, Sector 12 Faridabad along with his wife Divya and two daughters namely Bhoomi and Disha. At about 07.30-08.00 PM, when they were at a short distance from the gate of the Town Park, Sector 12, a vehicle bearing registration No.HR-12X-0007



came from behind in a rash and negligent manner and struck against the scooty. The injured were rushed to the hospital. However, during the treatment Dayanand and his daughter Disha unfortunately expired whereas Divya and Bhoomi sustained serious injuries. On the basis of these allegations, the impugned FIR was registered.

3. Learned Senior counsel for the petitioner *inter alia* contends that the petitioner has been falsely implicated in the present case. At the time of the alleged incident, one Dharamvir son of Satbir Singh was driving the aforesaid vehicle, which met with an accident and as a responsible citizen, the petitioner immediately produced Dharamvir before the local police and made him surrender and also made a statement before the investigating officer. Subsequently, after 02 months, the investigating officer has nominated the petitioner as an accused in the FIR (supra). Admittedly, the incident has taken place in a road side accident and merely because the petitioner was the owner of the vehicle, in question, he cannot be held liable for the rash and negligent driving of the same. Further, there is no mens rea on the part of the petitioner and the petitioner is 50 years of age and is a diabetic patient. Even if the allegations, levelled by the prosecution are admitted to be as a gospel truth, even then at the most the offence under Section 304-A IPC is made out against the petitioner, however, the investigating officer has exaggerated the real facts after 02 months of the alleged incident, only to make it a case under Section 304-II IPC.



4. Learned Senior counsel for the petitioner further submits that the petitioner is not involved in any other case and has suffered the incarceration of more than 10 months. Moreover, there are total 31 prosecution witnesses cited in the list of witnesses, out of which, no PW 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 today in the Court which is taken on record and refers to the status report dated 20.11.2024, to submit that the petitioner is actively involved in the alleged incident and in fact, he was driving the vehicle, in question at a high speed when the accident had taken place, in which 03 innocent persons have died. Further the petitioner gave a false statement to the police to the effect that at the time of accident, Dharamvir was driving the offending vehicle, however, he could not controvert the fact that the petitioner is not involved in any other case.

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 more than 10 months. 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 31 prosecution witnesses, no PW 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 Jai Parkash is ordered to be released on regular



bail during pendency of the trial, on 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

02.05.2025
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Whether speaking/reasoned:	Yes/No
Whether reportable:	Yes/No