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IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

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Date of decision: 28.04.2025

1. CRM-M-42459-2024

Jaswinder Kumar @ Lucky

....Petitioner

Versus

State of Punjab

....Respondent

2. CRM-M-53758-2024

Joginder Pal @ Sunny

....Petitioner

Versus

State of Punjab

....Respondent

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Mr. Kapil Khanna, Advocate
for the petitioner in CRM-M-42459-2024.

Mr. Bhawesh Chaudhary, Advocate
for the petitioner in CRM-M-53758-2024.

Mr. Sandeep Kumar, DAG, Punjab.

Ms. Ruchi Sekhri, Advocate
for the complainant in both the cases.

HARPREET SINGH BRAR J. (Oral)

1. Vide this common order, I intend to dispose of CRM-M Nos.42459 and 53758 of 2024, as common questions of law and facts are involved for adjudication. For the sake of convenience, facts are taken from CRM-M-42459-2024.

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2. Prayer in both these petitions filed under Section 483 of BNSS, 2023 is for grant of regular bail to the petitioner(s) namely Jaswinder Kumar @ Lucky and Joginder Pal @ Sunny in FIR No.22 dated 13.02.2024 registered under Sections 323, 324, 326, 307, 148, 149, 506 IPC (offence under Sections 326 and 307 has been added later on) at Police Station Goraya, District Jalandhar (Rural).

3. The brief facts of the case are that Surinder Singh @ Sodhi, an agriculturist from village Sangh Desiyan, District Jalandhar, reported an attack on him by a group of individuals on 10.02.2024, at about 12:00 to 1:00 PM. The dispute arose because Surinder Singh @ Sodhi paid to repair a shared water pump, but Gurjant Singh, who leased land from Surinder's uncle, didn't pay his share of Rs.1900/- and Rs.2000-2500/- respectively. While Surinder Singh @ Sodhi was working on his farm, a group of persons including Sunny (petitioner in CRM-M-53758-2024), Gurjant Singh, Amandeep, Manveer Singh, Amrik alias Micka, and Lucky (petitioner in CRM-M-42459-2024), arrived on their motorcycles, armed with weapons like swords and sharp tools. Manveer Singh threatened Surinder Singh @ Sodhi, and then the said group of persons attacked him, hitting him on his head and ankles. When a passerby came nearby, they ran away from the spot, after extending threats to the complainant. The injured Surinder Singh @ Sodhi was taken to DMC Hospital in Ludhiana for treatment. Thereafter, the impugned FIR was registered.

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4. Learned counsel for the petitioner(s), inter alia, contends that there is a delay of 03 days in registration of the FIR, which creates a serious dent on the case set up by the prosecution and after due deliberation and consultation, 06 persons have been nominated as an accused in the FIR (supra). The offence under Section 307 IPC was added later on, on the basis of the supplementary statement made by the complainant.

5. Learned counsel for the petitioner – Jaswinder Singh Lucky, is alleged to have given injuries on the left ankle of the complainant whereas the petitioner – Joginder Singh @ Sunny has given injury on the head of the complainant as such, it would be a moot point to be determined by the learned trial Court whether both the petitioners can be held liable for the offence punishable under Sections 307 and 326 IPC with the aid of Sections 148 and 149 IPC. Both the petitioners have not caused the injuries for which the offence under Section 307 IPC has been invoked. Further the complainant – Surinder Singh has been examined as PW-1 and Daljit Kaur has been examined as PW-2 and the next date of hearing fixed before the learned trial Court is 21.05.2025. Furthermore, the petitioner – Jaswinder Kumar @ Lucky has suffered the incarceration of 01 year, 02 months and 10 days whereas the petitioner – Joginder Pal @ Sunny has suffered the custody of 10 months and 18 days.

6. Learned counsel for the petitioner(s) further submits that there are total 22 prosecution witnesses cited in the list of witnesses,

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out of which, 02 PWs have been examined till date and the trial is likely to take long time in conclusion.

7. *Per contra*, learned State counsel has filed custody certificates today in the Court which are taken on record and he assisted by learned counsel for the complainant vehemently opposes the prayer for bail on the ground that both the petitioners have actively participated in a brutal attack on the complainant, in which the right leg of the complainant Surinder Singh was amputated and his left leg is damaged. Further the complainant remained admitted in hospital for 17 days and he was discharged only on 27.02.2025. Thereafter, the complainant suffered a brain stroke and he was again hospitalized and discharged on 18.03.2025 and furthermore, the petitioner – Joginder Pal @ Sunny posted pictures of the complainant in an injured condition on his Instagram account, using it as an act of intimidation and both the petitioners are also involved in other cases, however, he could not controvert the fact that the petitioner – Jaswinder Kumar @ Lucky is in custody from the last 01 year, 02 months and 10 days whereas the petitioner – Joginder Pal @ Sunny is in custody from the last 10 months and 18 days.

8. Having heard learned counsel for the parties and after perusing the record of the case, it transpires that the petitioner – Jaswinder Kumar @ Lucky is behind the bars from the last 01 year, 02 months and 10 days and the petitioner – Joginder Pal @ Sunny is behind the bars from the last 10 months and 18 days. Investigation is

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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 22 prosecution witnesses, 02 PWs have been examined so far.

9. 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."

10. 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(s)-accused. Keeping the petitioner(s) in further detention without the prospect of the trial being concluded in the

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near future, would be violative of their rights under Article 21 of the Constitution of India.

11. Further keeping in view the law laid down by the Hon'ble Supreme Court of India in "***Prabhakar Tewari vs. State of U.P. and another***" 2020 (1) R.C.R. (Criminal 831) and "***Maulana Mohd. Amir Rashadi vs. State of U.P. and another***", 2012 (2) SCC 382, the involvement of the petitioner in other cases would not be a ground to refuse grant of concession of regular bail.

12. In view the discussion above, the present petitions are allowed. Accordingly, without commenting upon the merits of the case, the petitioner(s) namely Jaswinder Kumar @ Lucky and Joginder Pal @ Sunny are ordered to be released on regular bail during pendency of the trial, on their furnishing bail bonds/surety bonds to the satisfaction of Illaqa Magistrate/trial Court/Duty Magistrate subject to the following conditions:-

- i) ***Both the petitioners will appear before the SHO of the concerned Police Station on 1st Monday of every month at 11:00 AM.***
- ii) ***If the petitioners make an attempt to influence or contact the prosecution witnesses, then the complainant as well as the prosecution would be at liberty to seek cancellation of their bail.***
- iii) ***Both the petitioners shall get their mobile number registered in the learned trial Court for receiving messages through CIS and shall not change their mobile number during pendency of the case.***

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- iv) *Both the petitioners shall also get their mobile number registered with the concerned Police Station.*
- v) *In case the petitioners change their residence, they shall inform the Court concerned about their new address and in case of default, the learned trial Court is free to cancel the bail granted to the petitioners.*

13. 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.

14. A photocopy of this order be placed on the file of other connected case.

(HARPREET SINGH BRAR)
JUDGE

28.04.2025
yakub

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