

**CRM-M-49610-2024 (O&M)****1****214****IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH****CRM-M-49610-2024 (O&M)****Date of Decision: 09.07.2025****VARINDER SINGH @ KALU****...PETITIONER****Versus****STATE OF PUNJAB****...RESPONDENT****CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR**

Present: Mr. Amit Agnihotri, Ms. Anju Kaushik, Mr. Mani Makkar
and Mr. Abhishek Jindal, Advocates for the petitioner.

Mr. Sandeep Kumar, DAG Punjab.

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

1. This is the second petition filed under Section 483 of Bhartiya Nagarik Suraksha Sanhita, 2023 (for short 'BNSS') for grant of regular bail to the petitioner in case bearing FIR No. 0001 dated 13.01.2022 registered under Sections 302, 323, 148, 149, 120-B and 201 of Indian Penal Code (hereinafter to be referred as 'IPC') and Sections 25, 27 of Arms Act at Police Station Bhikhiwind, District Tarn Taran.

2. The FIR(supra) was registered on the statement of Jatinder Singh who stated that he is a Sewadar in Beer Baba Budha Sahib Gurdwara. On 12.01.2022, at about 09:45/10:00 PM, complainant received a telephonic call from Varinder Singh alias Kalu (petitioner herein), who is friend of son of complainant, who stated that Harsimran Singh alias Sunny (son of the complainant) has received a gun shot injury and the petitioner is going to KD Hospital Amritsar and that complainant should reach there. Upon receiving the said information, complainant alongwith his brother Harpal Singh, reached KD Hospital Amritsar where he saw the dead body of his son Harsimran Singh alias Sunny lying on stretcher. Thereafter, petitioner told the complainant that Manga

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Singh armed with Pistol, Bhallu armed with pistol, Lovepreet Singh armed with *datar*, Soni armed with pistol, all residents of Bhikhiwind and Happy Ranike, alongwith 2/3 unidentified persons, were abusing Gopi while standing in the street. When petitioner and Harsimran Singh alias Sunny came outside, on hearing the abuses, Manga Singh raised Lalkara to catch hold of the petitioner and to teach him a lesson for helping Gopi, pursuant to which Bhallu fired shots from his pistol. One of the shots hit Harsimran Singh alias Sunny in his thigh as a result of which Harsimran Singh alias Sunny fell down. On hearing the sound of gun shots, Gopi rushed outside his house, where Happy Ranike hit Gopi with a brick bat. The assailants then ran away from the spot and Harsimran Singh alias Sunny was rushed to CHC, Bhikhwind, from where he was immediately referred to KD, Hospital, Amritsar. As per this information given by the petitioner, complainant intimated the police about the occurrence. On the basis of aforesaid allegations, FIR(supra) was lodged.

3. Learned counsel for the petitioner submits that this is the second petition seeking grant of regular bail to the petitioner and first petition was dismissed as withdrawn on 31.10.2023. Present petition has been filed under the changed circumstances as all the alleged eye witnesses have been examined and they have not supported the case of the prosecution and have been declared as hostile by learned Public Prosecutor. Learned counsel further contends that it was the petitioner who rushed the son of the complainant to the hospital, where he succumbed to his injuries and upon the information provided by the petitioner to father of the deceased, FIR(supra) was lodged. Thereafter, complainant made a supplementary statement and named the petitioner as one of the accused out of suspicion. Learned counsel further submits that on the same set of allegations, 05 of the co-accused have been declared as innocent and one



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of the co-accused namely Mandeep Kaur has been granted the concession of regular bail by this Court. Further, there is no legal evidence against the petitioner and the prosecution has already examined all the material witnesses including the eye witnesses, who have allegedly witnessed the murder of the deceased and all of them have not supported the case of the prosecution. Petitioner has suffered incarceration of more than 03 years and 05 months. Although, the petitioner is involved in 03 more cases, however, out of those cases, he is on bail in two cases.

4. Learned State counsel has filed the custody certificate of the petitioner, which is taken on record and *per contra* opposes the prayer for grant of regular bail to the petitioner on the ground that petitioner along with co-accused has connived together and in pursuance to the conspiracy, the deceased was killed. Further, as per the case set up by the prosecution, the weapon of offence used in the crime, was provided by the petitioner to the co-accused Gurpreet Singh @ Gopi, who fired upon the deceased and as per the demarcation of the petitioner, the weapon of offence was recovered. Thus, the petitioner is not entitled to any relief by this Court. However, he could not controvert the fact that all the alleged eye witnesses have not supported the case of the prosecution and out of total 35 prosecution witnesses, 15 PWs are yet to be examined.

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 more than 03 years 05 months and 13 days. Investigation of the case is complete. The final report under Section 173 Cr.P.C. was presented before the concerned Court and trial of the case will take considerable long time to conclude as out of total 35 PWs, 15 are yet to be examined.



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 the discussion above and without commenting upon the merits of the case, the present petition is allowed and the petitioner-Varinder Singh @ Kalu 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.



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9. 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

09.07.2025
Ajay Goswami

Whether speaking/reasoned
Whether reportable

Yes/No
Yes/No