



CRM-M-56840-2023 (O&M) and one more case

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**216 IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH**

**1. CRM-M-56840-2023 (O&M)
Date of Decision: 12.05.2025**

ACHHAR SINGH@NILU AND ANOTHER ...PETITIONERS

Versus

STATE OF PUNJAB ...RESPONDENT

**2. CRM-M-16884-2024 (O&M)
Date of Decision: 12.05.2025**

AMAN SINGH ALIAS RAFI ...PETITIONER

Versus

STATE OF PUNJAB ...RESPONDENT

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: None for the petitioner in CRM-M-56840-2023.

Mr. Himmat Deol, Advocate
for the petitioner in CRM-M-16684-2024.

Mr. Sandeep Kumar, DAG Punjab.

Mr. Sahil Koul, Advocate and
Mr. Ramandeep Pratap Singh, Advocate
for the complainant in CRM-M-16684-2024.

Mr. B.S. Randhawa, Advocate
for the complainant in CRM-M-56840-2023.

Harpreet Singh Brar, J. (Oral)

1. Both these petitions are decided by this common order as both are arising out of the same FIR. However, the facts are taken from CRM-M-16684-2024.

2. Present petitions have been filed under Section 439 of Cr.P.C. seeking grant of regular bail to the petitioner(s) in case bearing FIR No. 202 dated 02.11.2022 registered under Sections 302, 307, 323, 341, 148 and 149 of

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Indian Penal Code (hereinafter to be referred as 'IPC') at Police Station City Rupnagar District Rupnagar.

3. FIR(supra) was registered on the statement of complainant Ashok Singh who stated that on the date of occurrence he along with his brother Puneet and Sunny, son of Sham Singh were coming back to Sadawarth after moving complaint before SSP, Rupnagar. At about 03.00PM, they were present at Railway Line, near NCC Academy, then, Ravi son of Kallu Singh, Sahib Singh son of Kallu Singh (petitioner No. 2 in CRM-M-56840-2023), Nazar son of Parshotam, Moji son of Raja, Raja, Neelu son of Ram Singh, Tota son of Bhola along with some unknown persons wrongfully restrained them. All the above said persons were having sharp edged *Kirpan* (deadly weapon). Suddenly they attacked on them with *Kirpan*. Moji and Ravi gave *Kirpan* blow, which hit on the head of complainant's brother Puneet. Sahib and Moji also gave *Kirpan* blow, which hit on complainant's head and left hand. Due to that hit, they fell down and the other persons also gave *kirpan* blows on them. Due to grievous injuries inflicted upon them, complainant's brother Puneet died and he was admitted in the Hospital in dead condition. Complainant-Ashok and Sunny also received grievous injuries due to which they were under treatment in Civil Hospital, Rupnagar. All the above said persons in connivance with each other with a common intention to kill them attacked on complainant party due to which his brother died. On the basis of aforesaid allegations, FIR(supra) was registered.

4. Learned counsel for the petitioners *inter alia* contends that petitioners have been falsely implicated in the present case and petitioners Achhar Singh @ Nilu and Aman Singh @ Rafi have been nominated on the basis of disclosure statement made by co-accused Rahul @ Moji, which has no

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evidentiary value in the eyes of law. Further petitioners Achhar Singh @ Nilu and Aman Singh @ Rafi have not been named in the FIR and no specific role or injury has been attributed to all the petitioners. Initially 07 persons were named in the FIR and as per the statement of complainant Ashok Singh, Ravi son of Kalu Singh and Moji son of Raja were the main accused, who have been attributed specific injuries upon the deceased and Ravi has been declared as innocent by the Investigating Officer, which creates a serious dent on the case set up by the prosecution. He has been summoned later on by invoking the provision under Section 319 of Cr.P.C. Two of the petitioners namely Achhar Singh @ Nilu and Sahib Singh were initially declared as innocent when the first final report was submitted. However, supplementary report was submitted and they have been nominated as accused in the case. As such, the complicity of the petitioners is not proved at all and lastly it has been contended that all the petitioners have suffered incarceration for almost 02 year and 06 months and the trial of the case has not even reached the halfway mark.

5. Learned State counsel produces the custody certificates of the petitioners, which are taken on record and *per contra*, he assisted by learned counsel for the complainant, vehemently opposes the grant of regular bail to the petitioners on the ground that petitioners have actively participated in the alleged occurrence and complainant as well as Sunny received injuries in the alleged occurrence and Puneet was murdered. However, he could not controvert the fact that except petitioner-Achhar Singh @ Nilu who is facing trial in an FIR registered under Sections 452, 323, 506, 148 and 149 of IPC, no other petitioner is involved in any other case.

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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. Having heard learned counsel for the parties and after perusing the record of the case, it transpires that the petitioners Achhar Singh @ Nilu, Sahib Singh and Aman Singh @ Rafi are behind the bars from the last 02 year 05 months and 23 days, 02 years 05 months and 25 days and 02 years 06 months respectively. Investigation 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 21 PWs, only 10 have been

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examined so far. The culpability, if any, would be determined at the time of trial.

9. In view the discussion above, the both petitions are allowed. Accordingly, without commenting upon the merits of the case, the petitioners- Achhar Singh @ Nilu, Sahib Singh and Aman Singh @ Rafi are 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.

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

(HARPREET SINGH BRAR)
JUDGE

12.05.2025*Ajay Goswami**Whether speaking/reasoned*
*Whether reportable**Yes/No*
Yes/No