



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

**CRM-M-58286-2023
Date of decision: 16.01.2025**

AKASH

...PETITIONER

V/S

STATE OF HARYANA

...RESPONDENT

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Mr. Santosh Kumar Tripathi, Advocate
for the petitioner.

Ms. Geeta Sharma, DAG, Haryana.

HARPREET SINGH BRAR, J. (ORAL)

1. This is the first petition filed under Section 439 of Cr.P.C. seeking grant of regular bail to the petitioner in the case bearing FIR No.0446 dated 10.11.2022 registered under Sections 394/397/34 of Indian Penal Code and Section 25(1-b)(a) of Arms Act added later on at Police Station DLF Sector 29, Gurugram, District Gurugram.

2. Brief facts of the case are that the complainant Arun Kumar moved a complaint wherein, he alleged that he is employed as RAF Engineer in Phantom Health Care Private Limited, Faridabad. On 10.11.2022, he came to Sohna Chowk, Gurugram from his house at Gautambudh Nagar by cab. Thereafter, he boarded in an auto-rickshaw for Modern Diagnostic Center, Jawahar Nagar, Gurugram. Besides the driver, one another person was sitting with him on the rear seat of the auto rickshaw. At about 1:20 PM, when they reached at IFFCO Chowk, U-turn in front of Leisure Valley Park NH 48, driver stopped the auto-rickshaw on the pretext of urinate. Then all of sudden, auto-rickshaw driver pointed a knife on his chest and asked to hand over him all his



belongings. When he refused, auto-rickshaw driver gave knife blows on his right hand and chest. He sustained injuries on his three fingers and chest. Another person snatched his cell phone make Vivo Y75 of blue colour having SIM No.9568436237 of JIO and Rs. 300-400/- from the right pocket of his pants. When he raised alarm, both the accused sped away from the spot in their auto rickshaw. Hence, the FIR (supra) was registered.

3. Learned counsel for the petitioner *inter alia* contends that the petitioner was released on interim bail by this Court on 29.01.2024 and the petitioner has suffered an incarceration of 01 year, 02 months and 19 days. Learned counsel submits that the star witness of the prosecution i.e. PW-1 Jagdish Prasad has not supported the case of the prosecution and he has been declared hostile by learned Public Prosecutor. Learned counsel further submits that after the petitioner was released on interim bail by this Court on 29.01.2024, he has not misused that concession and has been regularly appearing before learned trial Court.

4. Learned State counsel produces the custody certificate, which is taken on record and *per contra* opposes the prayer made by the petitioner on the ground that the petitioner is involved in one more case and there are serious and specific allegations against him. However, he could not controvert the fact that the owner of the vehicle in question has not supported the case of the prosecution.

5. Having heard the learned counsel for the parties and after perusing the custody certificate, it transpires that petitioner has undergone a period of 01 year, 02 months and 19 days as on 14.01.2025. The Investigating Agency has concluded the investigation and filed the final report under Section 173 Cr.P.C. before the concerned Court and out of total 16 prosecution witnesses, only 10



have been examined till date. The petitioner has already been granted interim bail by this Court on 29.01.2024. Culpability, if any, would be determined at the time of the trial.

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 of the above, the interim regular bail granted to the petitioner vide order dated 29.01.2024, is hereby made absolute.

9. The petition is accordingly disposed of.

10. Nothing observed hereinabove shall be construed to be an



expression of opinion by this Court lest it may prejudice the trial. The learned trial Court is directed to proceed with the trial on its own merits, strictly in accordance with law.

January 16, 2025
manisha

(HARPREET SINGH BRAR)
JUDGE

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|------|---------------------------|--------|
| (i) | Whether speaking/reasoned | Yes/No |
| (ii) | Whether reportable | Yes/No |