



CRM-M-57750-2024

-2-

nominated as an accused only on the basis of self incriminating disclosure statement made by the petitioner and as per the case set up by the prosecution, the petitioner has given fist and slap blows. Further, the deceased was pushed and his head struck on the wall by co-accused, Sandeep. He further relies upon *ruqa* (Annexure P-4) sent by the Medical Officer, LNJP Hospital, Kurukshetra, in which it has been recorded that the deceased was admitted to the hospital on account of injuries suffered in a road side accident. Further, the deceased has absconded from the hospital. He further submits that apart from the disclosure statement of the petitioner, there is no other evidence available on record to connect the petitioner with the alleged incident. Learned counsel for the petitioner further refers to the medical record of the PGIMER, Chandigarh and submits that the deceased has left against the medical advice. The petitioner is behind the bars since 09.02.2023 and till date, out of 27 prosecution witnesses, only 07 have been examined so far.

The learned State counsel has filed custody certificate in the Court today which is taken on record and per contra, opposes the grant of regular bail to the petitioner on the ground that the petitioner has played an active role in committing the murder of the deceased and he is also undergoing life imprisonment in a murder case.

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.”

Having heard learned counsel for the parties and after perusing the record of the case, it transpires that the petitioner is behind the bars since 09.02.2023. Investigation is complete. The final report under Section 173 Cr.P.C. was presented before the concerned Court and trial of the case has not made much progress as only 07 out of 27 prosecution witnesses have been examined so far. The culpability, if any, would be determined at the time of trial. No useful purpose shall be served by further detention of the accused/petitioner. 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.

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.

In view the above, the present petition is allowed. Thus, without commenting upon the merits of the case lest it may prejudice the outcome of the trial, the petitioner-Devender Kumar @ Billu, is ordered to be released on

**CRM-M-57750-2024****-4-**

regular bail during trial on his furnishing bail bonds/surety bonds to the satisfaction of Illaqa Magistrate/Trial Court.

Nothing observed hereinabove shall be construed as expression of opinion of this Court on merits of the case and the trial Court shall proceed without being prejudiced by observations of this Court.

(HARPREET SINGH BRAR)
JUDGE

26.05.2025*Neha*

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