



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

CRM-M-59302-2024

Date of decision: 20.03.2025

SATISH @ DILLI

...PETITIONER

V/S

STATE OF HARYANA

...RESPONDENT

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Mr. S.D. Bishnoi, Advocate for the petitioner.

Mr. Vikas Bhardwaj, AAG, Haryana.

HARPREET SINGH BRAR, J. (ORAL)

1. Present petition has been filed under Section 483 BNSS, 2023 for grant of regular bail to the petitioner in case bearing FIR No.166 dated 15.04.2022, registered for the offences punishable under Section 346 of IPC (Sections 302, 201 and 34 of IPC added later on) at Police Station Sadar Sonipat, District Sonipat.

2. The brief facts of the present case are that on 15.04.2022, the complainant-Seema Sharma got recorded her statement before the police at Police Station Sadar, Sonipat to the effect that 04.04.2022, her son, who was 12th pass and unmarried and about 26 years of age, had come to Dhaba to do work, which is situated near Village Harsana Kalan, near Liquor vend. On 06.04.2022, he went without telling anything to anyone and no one is known about him till now, either her son has hidden himself or someone has hidden him somewhere, no clue is found, therefore her son please be traced out. Hence the FIR (*supra*) was registered.



3. Learned counsel for the petitioner *inter alia* contends that similarly situated co-accused namely, Naveen has been granted the concession of bail by this Court vide order dated 10.01.2025 in case bearing **CRM-M-65011-2024 (O & M)** titled as '**Naveen vs. State of Haryana**' (Annexure P-6). He submits that the petitioner is behind the bars since 21.05.2023. He further submits that the case of the prosecution hinges upon the testimonies of two witnesses, namely, Pawan and Gaurav *alias* Rocky, who have last seen the deceased in the company of the accused. Both these witnesses have been examined as PWs-2 and 4 respectively by the prosecution and have not supported the case of the prosecution and learned Public Prosecutor has declared them hostile. Furthermore, there is no other evidence to connect the petitioner with the alleged incident. It is contended that the petitioner is a young boy of 27 years of age.

4. 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 keeping in view the serious allegation, the petitioner is not entitled to concession of regular bail. However, he could not controvert the fact that co-accused Naveen has been granted the concession of regular bail and that the petitioner has undergone a total custody period of 01 year, 09 months and 29 days and no other case is pending against him.

5. 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.”

6. Having heard the learned counsel for the parties and after perusing the record of the case, it transpires that the petitioner is behind the bars since 21.05.2023 as per his custody certificate. 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 08 out of 28 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.

7. As far as the issue of the petitioner being a habitual offender is concerned, the Hon'ble Supreme Court in ***Prabhakar Tewari vs. State of U.P. 2020 (11) SCC 648*** and ***Maulana Mohd. Amir Rashadi vs. State of U.P. and another (2012) 2 SCC 382***, has categorically held that the grave and serious



allegations leveled against the accused or pendency of other cases against him cannot be the only basis to refuse the prayer of bail.

8. In view of 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-Satish *alias* Dilli is ordered to be released on regular bail during the pendency of the trial on furnishing bail bonds/surety bonds to the satisfaction of Illaqa Magistrate/Trial Court.

9. 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.

March 20, 2025
manisha

(HARPREET SINGH BRAR)
JUDGE

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