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

CRM-M-61671-2024 with
CRM-4990-2025
Date of decision: 07.04.2025

Sant Ram

....Petitioner

Versus

State of Haryana

...Respondent

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Mr. Lukesh Kumar, Advocate
for the applicant/petitioner.

Mr. Vikas Bhardwaj, AAG, Haryana.

HARPREET SINGH BRAR, J. (ORAL)**CRM-4990-2025**

The present application has been filed under Section 482 of Cr.P.C. for placing on record the copy of testimony of PW-14 & PW-15 as well as FSL report as Annexures P-12 to P-14, respectively.

In view of the averments made in the application, the same is allowed and copy of testimony of PW-14 & PW-15 as well as FSL report as Annexures P-12 to P-14, respectively, are taken on record.

CRM-M-61671-2024

This fourth petition has been filed under Section 439 of Cr.P.C. seeking regular bail in case bearing FIR No.86 dated 28.02.2022 under Section 302 of IPC read with Section 34 of IPC registered at Police Station Sadar, Rohtak, Haryana. Earlier petitions were dismissed as withdrawn by this Court.

The factual background of the case is that on 28.02.2022 at around 11:45 A.M., the complainant went to Holdaar Dhaba, Khirwali-Brahmanwas



road for taking money from the accused/petitioner. Upon entering the *dhaba*, the complainant discovered the dead body of a saint lying in the veranda. The body was observed to have abrasion injuries, and blood was oozing from the head. He heard the accused/petitioner telling that a scuffle took place between two saints during night and, thus, the instant case.

Learned counsel for the petitioner *inter alia* contends that the petitioner has been falsely implicated in the present case. The case set up by the prosecution hinges upon the testimony of PW-4-Parveen and PW-5-Jitender and both of them have been examined by the prosecution and they did not support the case of the prosecution. The learned Public Prosecutor have declared both of them hostile. Further, the FSL report does not corroborate the case set up by the prosecution. He further submits that similarly situated co-accused, namely, Balvinder Masih, has been granted the concession of regular bail by the learned Sessions Judge, Rohtak (Annexure P-6). The petitioner is behind the bars since 04.03.2022 and more than 03 years have passed, prosecution has not been able to conclude its evidence and the delay in conclusion of the trial cannot be attributed to the petitioner as he is in judicial custody.

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 this is fourth attempt of the petitioner seeking the concession of regular bail. Further, in terms of Section 106 of the Indian Evidence Act, it is incumbent upon the petitioner to provide the explanation how the dead body of the deceased was found in the premises of the petitioner. However, he could not controvert the fact that the petitioner has



suffered incarceration for more than 03 years and 01 month and out of 27 prosecution witnesses, 19 have been examined and 08 are yet to be examined by the prosecution. He further submits that the petitioner is involved in one more case and does not deserve any leniency.

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 04.03.2022. 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 out of 27 prosecution witnesses, 19 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-Sant Ram is ordered to be released on 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

07.04.2025
Neha

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