



**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**
243

CRM-M-62718-2024 (O&M)
Date of decision: 21.04.2025

Rohan
State of Haryana

Versus

....Petitioner
....Respondent

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Mr. Parvez Chugh, Advocate
for the petitioner.

Mr. Vikas Bhardwaj, AAG, Haryana.

HARPREET SINGH BRAR J. (Oral)

1. Prayer in this petition filed under Section 483 of the BNSS, 2023, is for grant of regular bail to the petitioner in FIR No.359 dated 12.09.2024 registered under Sections 115, 118(2), 190, 191(3) of the Bharatiya Nyaya Sanhita, 2023 (in short 'BNS, 2023') (Sections 238(a) and 109(1) of BNS, 2023 added later on) at Police Station DLF, District Gurugram.
2. The brief facts of the case are that the FIR (supra) was registered on the basis of the complaint made by Manjeet Rathi, a bouncer at Lapsa Club, Sahara Mall, who stated that on the night of 11.09.2024, while on duty, he asked a group of five young persons to take their final drink as the club was closing. However, one of them became aggressive and slapped him, and with the help of his friends, physically assaulted him. During the scuffle, one of the said person

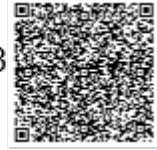


attacked the complainant with a sharp blade on his neck, causing serious injury. Thereafter, the said assailants fled away from the spot and the injured was admitted to Max Hospital by the club staff.

3. Learned counsel for the petitioner *inter alia* contends that, in fact, the complainant party is the aggressor party and the accused in the FIR (supra) also suffered injuries, however, the jurisdictional police authorities have not recorded the cross-version. Further the injury which was declared dangerous to life has been specifically attributed to co-accused Sagar. The petitioner is alleged to have been empty handed. The petitioner is not involved in any other case and is having clean antecedents. The investigation of the case is complete and the petitioner has suffered incarceration of more than 07 months.

4. Learned counsel for the petitioner further submits that there are total 17 prosecution witnesses cited in the list of witnesses, out of which, 03 PWs have been examined till date and the trial is likely to take long time in conclusion.

5. *Per contra*, learned State counsel has filed custody certificate today in the Court which is taken on record and he opposes the prayer made by learned counsel for the petitioner on the ground that the petitioner has been named in the FIR (supra) and he has actively participated in the alleged incident and the complainant suffered a grievous injury, which was later on declared as dangerous to life, however, he could not controvert the fact that the petitioner is not



involved in any other case and out of 17 PWs, only 03 PWs have been examined.

6. Having heard learned counsel for the parties and after perusing the record of the case, it transpires that the petitioner is behind the bars from the last 07 months and 06 days. Investigation is complete. The final report under Section 173 Cr.P.C. was presented before the concerned Court. Charges were framed and trial of the case has not made much progress. Out of 17 prosecution witnesses, 03 PWs have been examined so far.

7. A two Judge Bench of Hon'ble Supreme Court in ***"Satender Kumar Antil vs. 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."



8. Further the culpability, if any, would be determined at the time of trial and as such, no useful purpose will be served by further detention of the petitioner-accused. 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.

9. In view the discussion above, the present petition is allowed. Accordingly, without commenting upon the merits of the case, the petitioner namely Rohan is ordered to be released on regular bail during pendency of the trial, on his 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.

(HARPREET SINGH BRAR)
JUDGE

21.04.2025
yakub

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