

**CRM-M-64552-2024 (O&M)****-1-****214 IN THE HIGH COURT OF PUNJAB AND HARYANA
CHANDIGARH****CRM-M-64552-2024 (O&M)****Date of Decision: 09.01.2025****SUMIT****...Petitioner****V/S****STATE OF HARYANA****...Respondent****CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR**

Present: Mr. Diwan S. Adlakha, Advocate
for the petitioner.

Ms. Geeta Sharma, DAG Haryana assisted by
Mr. Ajay Kadyan, Advocate for the complainant.

**********HARPREET SINGH BRAR J. (Oral)**

1. Present petition has filed petition under Section 483 of BNSS for grant of regular bail in FIR No. 431 dated 18.09.2023 under Sections 302, 323, 148, 149, 212 of Indian Penal Code (charges framed under Sections 302, 323 read with Section 34 of IPC and Section 212 of IPC) at Police Station Jind Sadar, District Jind.

2. The prosecution came up with the averments that in the intervening night of 17/18.09.2023, a telephonic information was received that Sunil son of Chander Singh resident of Siwaha had died due to the sustaining of injuries in an altercation. On receiving this information, SI Vinod Kumar reached in village Siwaha where Anil, brother of Sunil was found present near the dead body. He got recorded his statement wherein he averred that Sunil was running Balaji Female Wrestling Academy at Pillukhera Road. On that day, at about 1.30 AM, he along with his brother Sunil and two other persons Pawan, Ashok were returning home from the

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academy. When they reached near the turn of the road, Meeta, Neeraj and Vishesh residents of Siwaha and Sumit (brother in law of Meeta) alongwith 4-5 other persons armed with *bindas* and *dandas* were standing on the road. When they reached near them, Meeta gave a *binda* blow on the head of Sunil and thereafter on the face of Sunil, Neeraj gave *binda* blow on the forehead of his brother, Vishesh gave a *danda* blow on the face of Pawan and Sumit gave a *danda* blow on his waist. Ashok in an attempt to rescue them fell down and thereafter all the assailants gave them fist and leg blows. Blood started oozing out from the head of Sunil. He fell down and succumbed to the injuries. He prayed for taking legal action against the assailants.

3. Learned counsel for the petitioner *inter alia* contends that admittedly there is no allegation against the petitioner that he caused any injury on the person of the deceased. The petitioner is alleged to have given a blow on the waist of the complainant with a stick and he has been implicated in the present case with the aid of Section 34 of Indian Penal Code and it would be a moot point to be determined by learned trial Court as to whether the petitioner can be held liable for Section 302 of IPC with the aid of Section 34 of IPC and petitioner is having clean antecedents.

4. Per contra, learned State counsel filed the custody certificate, which is taken on record and she, assisted by learned counsel for the complainant opposes the prayer made by learned counsel for the petitioner on the ground that petitioner has played active role in the alleged incident and he was also seen fleeing from the spot on a motorcycle after the



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incident in the CCTV footage procured by the Investigating Agency and pursuant to his disclosure, the said motorcycle has been recovered.

5. Having heard the learned counsel for the parties and after perusing the custody certificate, it transpires that petitioner is behind the bars since 25.09.2023 i.e. for a period of 01 year 03 months and 13 days and even after passing of 15 months of custody, only 02 prosecution witnesses out of total 32 prosecution witnesses have been examined till date. Culpability, if any, would be determined at the time of the trial.

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. In view of the above, the present petition is allowed and the petitioner-Sumit is ordered to be released on regular bail, subject to his

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furnishing bail bonds/surety bonds to the satisfaction of CJM/Duty Magistrate concerned.

7. 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.

09.01.2025
Ajay Goswami

(HARPREET SINGH BRAR)
JUDGE

Whether speaking/reasoned *Yes/No*
Whether reportable *Yes/No*

AJAY GOSWAMI
2025.01.09 18:17
I attest to the accuracy and
integrity of this document