

**CRM-M-64613-2024 (O&M)****-1-****215 IN THE HIGH COURT OF PUNJAB AND HARYANA
CHANDIGARH****CRM-M-64613-2024 (O&M)****Date of Decision: 09.01.2025****RAJESH @ RAJU****...Petitioner****V/S****STATE OF HARYANA****...Respondent****CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR**

Present: Mr. Ramnish Puri, Advocate
for the petitioner.

Ms. Geeta Sharma, DAG Haryana.

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

1. Present petition has filed petition under Section 483 of BNSS for grant of regular bail in FIR No. 511 dated 25.09.2023 under Section 302 of Indian Penal Code (Section 341, 34 of IPC added later on) registered at Police Station Sadar Fatehabad District Fatehabad.

2. The facts in brief are that the FIR in question has been registered at the instance of Umrao, the complainant who made a complaint stating therein that his son Sanjay (since deceased) was employed as driver on vehicle Tata Canter bearing No.HR-57A-4351 of Sukhjinder Singh for the last about 3-4 months. It was alleged that Sukhjinder Singh was having three Tata 1512G Canters. It was further alleged that on 24.09.2023 at about 7:00 P.M., Sanjay with Canter No.HR-57A-4351 alongwith Gurjant Singh, the driver of Canter No.PB-03BJ-8934 and Patel, the driver of Canter No. HR-57A-1263 had proceeded for Delhi after loading papers. It was further alleged that at about 12:20 A.M., he came to know that his son Sanjay and

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Gurjant were driving their respective Canters side by side and on Hisar-Sirsa bypass road, about 1 kilometer away from bridge of village Dhangar, Gurjant the driver of Canter No.PB-03BJ-8934 stopped his Canter in front of Canter No.HR-57A-4351 of his son Sanjay. It is further alleged that he quarreled with his son Sanjay and caused several injuries on his neck and body with iron 'Parkhi', due to which, his son had died in the Canter itself. It was further alleged that abovesaid Gurjant Singh was having grudge against his son without any reason and used to give threat to kill him and his son Sanjay had disclosed this to him. On these allegations, request was made to take action against the accused.

3. Learned counsel for the petitioner *inter alia* contends that petitioner has been falsely implicated in the present case as he was not named in the FIR and he has been nominated as accused only on the basis of disclosure statement of co-accused Gurjant Singh while in police custody, which has no evidentiary value in the eyes of law. Further, as per the case set up by the prosecution, the petitioner has not been attributed any injury on the person of deceased and he was only alleged to have been present along with main accused, at the time of incident and petitioner has suffered incarceration of more than 15 months and prosecution has failed to conclude its evidence.

4. Per contra, learned State counsel filed the custody certificate, which is taken on record and opposes the prayer made by learned counsel for the petitioner on the ground that connivance and presence of the petitioner at the time of incident is fully established and as such there is

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sufficient material available on record to prove his complicity. However, she could not controvert the fact that the petitioner is not involved in any other case.

5. Having heard the learned counsel for the parties and after perusing the custody certificate, it transpires that petitioner is behind the bars since 27.09.2023 i.e. for a period of 01 year 03 months and 12 days and even after passing of 15 months of custody, only 05 prosecution witnesses out of total 26 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."

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

(HARPREET SINGH BRAR)
JUDGE

09.01.2025
Ajay Goswami

<i>Whether speaking/reasoned</i>	<i>Yes/No</i>
<i>Whether reportable</i>	<i>Yes/No</i>