



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

250

CRM-M-18794-2025 (O&amp;M)

Date of decision: 21.04.2025

Rajesh Kumar @ Raja

....Petitioner

Versus

State of Punjab

....Respondent

**CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR****Present:** Mr. Fatehjeet Singh, Advocate for the petitioner.

Mr. Nitesh Sharma, DAG, Punjab.

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

1. Prayer in this 2<sup>nd</sup> petition filed under Section 439 of Cr.P.C., is for grant of regular bail to the petitioner in FIR No.307 dated 31.10.2023 registered under Sections 323, 307, 427, 452, 148, 149, 506 IPC and Section 25 of the Arms Act, (Section 450 IPC and Section 27 of the Arms Act added later on) at Police Station Rama Mandi, District Jalandhar Commissionerate. The 1<sup>st</sup> petition filed by the petitioner seeking regular bail was dismissed as withdrawn on 01.04.2025, with liberty to file afresh petition with better particulars.

2. As per the prosecution case, an FIR was registered on the statement of Sameer, a resident of Ekta Nagar, Rama Mandi, Jalandhar, who stated that while he was in the market with his sister-in-law Chaya Arora, some persons teased her, leading to a dispute. Later on in the night, at about 02:00 AM, two persons namely Pawan Rajput alias Rattan and Shiva Dhilwan allegedly returned to Sameer's house along with 30 accomplices. They reportedly attacked him with datar blows,



threw bricks, damaged property and cameras, and also used firearms. The complainant identified Ricky, Sanjay, Vipin, Shavi, Gattu, Lakhan, Kalu Bhaiya, Raja, and Ladi Haripurian with the help of CCTV footage. Thereafter, the impugned FIR was registered.

3. Learned counsel for the petitioner *inter alia* contends that all the injuries suffered by the complainant are simple in nature and the offence under Section 307 IPC has been added at the behest of the complainant by the investigating officer without any justifiable cause. The essential ingredients to invoke the aforementioned offence are not attracted at all. Further no specific injury has been attributed to the petitioner and the similarly situated co-accused of the petitioner has been granted the concession of regular bail by the learned Additional Sessions Judge, Jalandhar, vide order dated 04.06.2024 (Annexure P-4). He further submits that the petitioner has suffered the incarceration of more than 01 year.

4. Learned counsel for the petitioner further submits that there are total 17 prosecution witnesses cited in the list of witnesses, out of which, no PW has 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 played an active role in the alleged incident and he is involved in 05 more cases and he is a habitual offender and as such, he



is not entitled for any relief, however, he could not controvert the fact that out of 17 PWs, none has been examined so far.

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 01 year, 02 months and 21 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, no PW has 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. Further 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.

10. In view the discussion above, the present petition is allowed. Accordingly, without commenting upon the merits of the case, the petitioner namely Rajesh Kumar @ Raja 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.

11. 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