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IN THE HIGH COURT OF PUNJAB & HARYANA  
AT CHANDIGARH

CRM-M-24640-2025 (O&amp;M)

Date of Decision: 12.05.2025

RAJKAMAL

...PETITIONER

Versus

STATE OF HARYANA

...RESPONDENT

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Mr. D.S. Matya, Advocate  
for the petitioner.

Mr. Vikas Bhardwaj, AAG Haryana.

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**Harpreet Singh Brar, J. (Oral)**

1. This is the first petition filed under Section 483 of Bhartiya Nagrik Suraksha Sanhita, 2023 for grant of regular bail to the petitioner in case bearing FIR No. 127 dated 03.03.2017 registered under Sections 365, 379-B, 34 of Indian Penal Code at Police Station Sohna, District Gurugram (Annexure P-1).
2. The brief facts of the case of the prosecution are that on 03.03.2017, a complaint was filed by the complainant namely Santosh son of Ramo Singh R/o Kuhila, Bihar stating that in the intervening night of 02.03.2017/03.07.2017 at around 01:00 A.M, near KDM school, two boys came on motorcycle made Apache and made him to sit on their bike and started beatings him. An amount of Rs.11,000/- and mobile phone were snatched from him by those two boys and he was also threatened to kill. Investigation was carried out. Accused were arrested. Site plan was prepared. Statements of witnesses were recorded. After completion of investigation, final report against the accused persons was filed.
3. Learned counsel for the petitioner *inter alia* contends that petitioner has been falsely implicated in the present case and further there is no evidence



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available on record for connecting the petitioner with the alleged incident. The prosecution has failed to establish the identity of the petitioner being one of the assailants and further the mobile phone of the complainant was recovered from the co-accused Pardeep and the Investigating Officer has not even conducted the test identification parade. Further, the petitioner was granted regular bail by learned trial Court and then the challan was not presented and the Advocate of the petitioner informed him that till the challan is not presented, his presence is not required before the learned trial Court. Thus, the petitioner did not put in appearance before the learned trial Court and his bail bonds and surety bonds were forfeited and his bail order was cancelled, however, he was not declared as proclaimed offender and subsequently arrested on 14.06.2024 and since then he is in judicial custody. Further the petitioner has suffered incarceration for 01 year 01 month and 29 days. Learned counsel further submits that, however, petitioner is involved in any other cases, but he is on bail in those cases.

4. Learned State counsel produces the custody certificate of the petitioner, which is taken on record and *per contra*, opposes the grant of regular bail to the petitioner on the ground that petitioner is habitual offender and he has mis-used the concession of regular bail granted to him by the trial Court and his complicity in the alleged occurrence is duly proved. However, he could not controvert the fact that petitioner is behind the bars for 01 year 01 month and 29 days and out of 10 prosecution witnesses, only 04 have been examined till date. Thus, the trial has not reached even the halfway mark.

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 01 month and 29 days as on 09.05.2025. Investigation is complete. The final report under Section 173 Cr.P.C. was presented before the concerned Court



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and trial of the case is yet to conclude as out of total 10 PWs, only 04 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.

5. 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 ratio of law laid down by Hon'ble Supreme Court in **Prabhakar Tiwari Vs. State of UP and Anr.** 2020(1) RCR (Criminal) 831 and **Maulana Mohd. Amir Rashadi Vs. State of U.P. and Others** 2012(2) SCC 382, the involvement of accused in other criminal cases cannot be the sole ground to deny him the concession of bail.

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



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on 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**

**12.05.2025**

*Ajay Goswami*

*Whether speaking/reasoned*  
*Whether reportable*

*Yes/No*  
*Yes/No*