

**CRM-M-57506-2024 (O&M)****1****222****IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH****CRM-M-57506-2024 (O&M)****Date of Decision: 08.04.2025****VIKKY KUMAR GIRI****...PETITIONER****Versus****STATE OF HARYANA****...RESPONDENT****CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR**

Present: Mr. Deepanshu Matya, Advocate
for the petitioner.

Mr. Vikas Bhardwaj, AAG Haryana.

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

1. This is the first petition filed under Section 483 of Bhartiya Nagrik Suraksha Sanhita, 2023 seeking grant of regular bail to the petitioner in case bearing FIR No. 278 dated 17.12.2023 registered under Sections 392, 397, 506 and 34 of Indian Penal Code and Section 25(1-B) (a) of Arms Act 1959 at Police Station City Gurugram, District Gurugram.

2. The prosecution case in brief is that on 17.12.2023 the complainant Laxmi Narayan submitted a complaint to the police alleging therein that on 15.12.2023 at about 4.30 A.M. he was scheduled to pick-up staff of a company at Gurugram and drop them at the company gate situated in village Dadri Toe District Jhajjar. When he was driving his car through a lane in Jacobpura locality Gurugram, from opposite side a motorcycle came and two persons alighted therefrom. The above mentioned boys came to him and picked-up a quarrel with him by raising objection qua his manner of driving the car. Thereafter one of those boys held the collar of his shirt, another one placed a pistol-like weapon on his body and threatened to kill him. The complainant has further alleged that following the instructions of the assailants, he raised his hands and thereafter the

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above mentioned boy took away his mobile phone kept inside the car, and also the cash, worth Rs. 2,500/-, kept in his pocket. The complainant has further alleged that his driving licence, Aadhaar Card and other documents were also collected by the above mentioned assailants and when he raised alarm for help the above mentioned boys fled from the spot.

3. Learned counsel *inter alia* contends that there is no evidence available on record to establish the identity of the petitioner being one of the assailants. He further refers to the Test Identification Parade Proceedings & Report (Annexure P-2) and submits that during the test identification parade, complainant has failed to identify the petitioner as one of the assailants. As such, there is no legal evidence with regard to complicity of the petitioner and further the petitioner is behind the bars since 23.12.2023.

4. Learned State counsel produces the custody certificate of the petitioner, which is taken on record and *per contra*, opposes the prayer made by the petitioner on the ground that petitioner is a habitual offender and facing trial in 09 more cases, however, he earned acquittal in 01 case. Further there is sufficient material available on record to prove the complicity of the petitioner in the alleged incident. However, learned State counsel could not controvert the fact that petitioner is behind the bars since 01 year 03 months and 14 days.

5. 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 03 months and 14 days as on 07.04.2025 and till today, not even a single prosecution witness has been examined. Therefore, conclusion of trial shall take considerable long time.



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6. 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."

7. 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.

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 Vikky Kumar Giri is ordered to be released on regular bail during



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pendency of the trial, 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

08.04.2025

Ajay Goswami

Whether speaking/reasoned
Whether reportable

Yes/No
Yes/No