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IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

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Decided on: 14.05.2025

Sunil Kumar

. . . Petitioner

Versus

State of Punjab

. . . Respondent

CORAM: HON'BLE MS. JUSTICE KIRTI SINGH

Present : Mr. Rituraj Singh, Advocate
for the petitioner.

Mr. Aakanksha Gupta, AAG Punjab

KIRTI SINGH, J. (Oral)

The jurisdiction of this Court under Section 483 of BNSS has been invoked for grant of regular bail to the petitioner in case FIR No.0012 dated 04.02.2025, registered under Sections 115(2), 118(1), 126(2), 74, 76, 3(5) of BNS, 2023 at Police Station Mukerian, District Hoshiarpur.

2. The contents of the above-mentioned FIR are reproduced herein below:-

“Statement of Kiran Bala wife of Vijay Kumar resident of Ward No. 02 Bhatha Colony Mukerian, Police Station Mukerian aged about 35 years, Mob: 62399-46757, I would like to state that I am resident of above noted address and I am house wife. On 31.01.2025 during night hours, Rajinder Kumar @ Babu son of Ram Murti who is resident of our Mohalla, was abusing by taking the name of my husband and he was in drunken condition. On 01.02.2025 at around 4.00 PM, I was going to his house to ask the reason for abusing us and when I reached near the shop of my husband then Rajinder



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Kumar @ Babu son of Ram Murti armed with Chhura, his nephew/Bhanja namely Aman son of Bittu armed with wooden stick both residents of Bhatha Colony and their 2 unknown associates were standing in the street, who were already having intention to quarrel with us, Rajinder Kumar @ Bayu has stopped my way and has again started abusing me, then I restrained him from abusing but said Rajinder Kumar has raised Lalkara and given blow of his Chhura to me, I forwarded my right side arm to save me then said Chhura hit on my arm, then Aman has given blow of his Danda to me which hit on the backside of my neck, then Rajinder Kumar has caught hold my Jamper from neck and torn it with the aim to insult me and caused scratches on my breast with his nails then Aman has given blow of his Danda on my waist and again given blow of his Danda on the ankle of my right side foot and said both unknown youngmen have also given fist blows to me. I raised noise "Marta Marta" then my husband came out, then said assailants ran away from the spot along with their respective weapons. This entire incident is seen by brother of my Father- in-law namely Dharampal son of Hans Raj resident of Batha Colony. My husband has arranged vehicle and got me admitted in Civil Hospital Mukerian. The motive behind the grudge is that Rajinder Kumar @ Bayu use to abuse us and other residents of the Mohalla by consuming liquor. Till date we were in the process to compromise the matter through residents of Mohalla which could not come to an end. Therefore today I along with my husband Vijay Kumar was going to the Police Station, then you met us on the way, I have got my statement recorded to you, heard, same is correct. Sd/- Kiran Bala supported by Sd/- Vijay Kumar, attested by Sd/- Jagjit Singh, SI Police Station Mukerian dated 04.02.2025. Police proceedings: On 01.02.2025, myself SI was present in the Police Station then MHC of Police Station has given me MLR No. KJ/03/CHM/2025 dated 01.02.2025 of Kiran Bala wife of Vijay Kumar resident of Bhatha Colony, Mukerian to take action in this regard. Therefore myself SI reached at Civil Hospital Mukerian and



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recorded the statement of injured, who got recorded in her statement that she is injured and is not feeling well, she will give her statement on getting well as well as on receiving of X-ray report,. Today myself SI along with LCT Tanu Bala No. 1915/HPR, PHG Suresh Kumar No. 26150 were present at Bhangala Chungi Mukerian in connection with patrolling then Kiran Bala wife of Vijay Kumar resident of Bhatha Colony Mukerian along with her husband Vijay Kumar met us and has got her above said statement recorded. After recording statement, same is read over to her, who, after hearing her statement and admitting the same to be correct, appended her signature in English on the bottom of statement and Vijay Kumar has also appended his signature and I have attested the same. In above said MLR, the doctor has written total 5 injuries, injury No.1 is sharp and injuries No. 2,3,4, and 5 are blunt and all injuries are simple in nature. As per the contents of statement and MLR, the offence under section 115(2), 118(1), 126(2), 74,76,3(5) of BNS is made out, therefore the statement is being sent to the Police Station by the hand of PHG Suresh Kumar No. 26150 for registration of case, after register case, number of the same be intimated. After issuing special reports, the same be sent to the Ilaqa Magistrate and officers. Control room be intimated through wireless. I along with associate officials busy for investigation. Sd/- Jagjit Singh, SI, Police Station Mukerian dated 04.02.2025, within the area of Bhangala Chungi, Mukerian at 04.30 PM.”

3. Learned counsel for the petitioner submits that the petitioner has not been named in the present FIR, which was lodged after a delay of five days, but was nominated in this case on the basis of disclosure statement of the co-accused. It has been submitted that the main accused has been granted the concession of regular bail by the learned trial Court vide order dated 28.03.2025 (Annexure P-3). Further, while one similarly placed co-accused has been granted the concession of anticipatory bail by the learned trial Court vide order dated 09.04.2025 (Annexure



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P-4), another co-accused has been granted the concession of regular bail by the learned trial Court vide order dated 18.04.2025 (Annexure P-5). He further submits that petitioner has undergone an actual custody of 01 month and 26 days and there are four more cases under the NDPS Act pending against him, in all of which he is on bail and the recovery in all the cases is of non-commercial quantity.

4. *Per contra* learned State counsel on instructions from ASI Sukhwinder Singh submits that there are four more cases under the NDPS Act registered against the petitioner, though the recovery in all of them is of non-commercial quantity. He further submits that petitioner has undergone an actual custody of 01 month and 26 days. However, in view of the serious allegations against the petitioner, he is not entitled to the concession of regular bail.

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 since 17.03.2025. Two of the co-accused in this case have been granted the concession of regular bail vide orders dated 28.03.2025 and 18.04.2025 by the trial Court while one of the co-accused has been granted anticipatory bail vide order dated 09.04.2025. No useful purpose shall be served by further detention of the accused/petitioner. Keeping the petitioner in further detention without the prospect of the trial being concluded in the near future, would be violate of his rights under Article 21 of the Constitution of India including the right to speedy trial, and is against the principle “Bail is a rule, jail is an exception” as elucidated in the judgment of Apex Court in **“Dataram Singh vs. State of Uttar Pradesh and another”, (2018) 3 SCC 22.**

6. As regards the submission of learned State counsel that petitioner is involved in four more criminal cases, it has been held by the Hon’ble Supreme



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Court in *Maulana Mohd. Amir Rashadi Vs. State of U.P. and another, 2012 (2) SCC 382* that the facts and circumstances of the present case are to be seen while deciding a bail application and the bail application of the petitioner cannot be rejected solely on the ground that the petitioner is involved in another case. The relevant portion of the said judgment is reproduced herein-below:-

“As observed by the High Court, merely on the basis of criminal antecedents, the claim of the second respondent cannot be rejected. In other words, it is the duty of the Court to find out the role of the accused in the case in which he has been charged and other circumstances such as possibility of fleeing away from the jurisdiction of the Court etc.”

7. Without commenting anything on the merits of the case, lest it may prejudice the trial, the present petition is allowed and the petitioner is ordered to be released on regular bail on his furnishing adequate bail/surety bonds to the satisfaction of the concerned learned trial Court/Duty Magistrate. The petitioner shall also abide by the following conditions:-

- (i) The petitioner will not tamper with the evidence during the trial.
- (ii) The petitioner will not pressurize/intimidate the prosecution witness(s).
- (iii) The petitioner will appear before the trial Court on the date fixed, unless personal presence is exempted.
- (iv) The petitioner shall not commit an offence similar to the offence of which he is accused of, or for commission of which he is suspected.
- (v) The petitioner shall not directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade him from disclosing such facts to the Court or to any police officer or tamper with the evidence.

8. In case of breach of any of the above conditions, the prosecution shall



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be at liberty to move an application for cancellation of bail before this Court.

9. However, nothing stated above shall be construed as a final expression of opinion on the merits of the case and the trial Court would proceed independently of the observations made in the present case which are only for the purpose of adjudicating the present bail petition.

10. Pending miscellaneous application(s), if any, also stands disposed of.

(KIRTI SINGH)
JUDGE

14.05.2025

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Whether speaking/reasoned: Yes/No

Whether Reportable: Yes/No