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AT CHANDIGARH**

**CRM-M-16089-2025  
Date of decision: 28.03.2025**

**KRISHAN ALIAS LUKKI**

**...PETITIONER**

**V/S**

**STATE OF HARYANA**

**...RESPONDENT**

**CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR**

Present: Ms. Sharmila Sharma, 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 Bharatiya Nagarik Suraksha Sanhita (BNSS) for grant of regular bail to the petitioner in case bearing FIR No.141 dated 30.03.2024 under Sections 302/120-B of IPC, 1860 and Section 25 of the Arms Act, 1959 (Section 34 of IPC added later on) registered at Police Station Chandhut, District Palwal (Annexure P-1).

2.            In brief, facts of the case are that in the evening of 29.03.2024, in pursuance to an information that a murder had taken place in village Kulena, police party reached there and found dead body of Umesh, a resident of said village. Accordingly complaint was moved by Luxman, who being father of deceased disclosed that on 26.03.2024, a dispute had taken place in village between '2' groups and in order to settle the matter Umesh (since deceased) intervened. Further, as per complainant's version, in the said dispute, one faction was of "Naresh & Dinesh" sons of Radhey, they are habitual criminals as in the past many cases were lodged against them. Since Umesh tried to get



their matter settled, he was threatened to be killed by Naresh. Repeated threatening telephonic calls were received by deceased. Further, as per complainant's version on 29.03.2024, at about 2:00 in the afternoon, Bishan (co-accused) came to the house of complainant and persuaded Umesh to accompany him so as to sort out the matter with Naresh & others. Accordingly, Umesh left the house on motorcycle of Bishan and reached the fields where Naresh, Dinesh, Naveen, Mohit, Umakant, Bhudev, Lukki @ Krishan (petitioner herein), Sonu & Nijja were already present and one of them fired at Umesh, as a result he died there and then.

3. Learned counsel for the petitioner, *inter alia*, contends that the alleged incident has taken place at 2:00 PM and the FIR (*supra*) was registered on the next day at about 1:45 PM and the complainant has refused to record his statement on the arrival of the police. She further contends that although, the petitioner has been named in the FIR (*supra*), however, no overt act or specific allegation has been levelled against him. She refers to the statements of witness-Hukam Chand i.e. grandfather of deceased, recorded under Section 161 Cr.P.C., in which, he has specifically named co-accused Sonu @ Nijja, who has fired upon the deceased, as a result of which, he has died. Further, the pistol used in the crime, was recovered from co-accused Naveen. Apart from the presence of the petitioner at the spot, there is no other allegation against him. It would be a moot point to be determined by the trial Court whether the petitioner can be held liable for an offence under Section 302 IPC with the aid of Section 120-B of IPC or Section 34 of IPC. The petitioner is having clean antecedents and is behind the bars for the last about 01 year.



4. Learned State counsel produces the custody certificate of the petitioner, which is take on record and *per contra*, opposes the prayer of the petitioner on the ground that the petitioner has played active role and his complicity is duly proved by the mere fact that he was present along with the main accused, at the time of incident. However, he could not controvert the fact that the petitioner is not involved in any other case and out of 20 witnesses cited by the prosecution, only 03 have been examined till date.

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. Having heard learned counsel for the parties and after perusing the record of the case, it transpires that the petitioner is behind the bar since 08.04.2024. 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 as out of 20 witnesses cited by the prosecution, only 03 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. 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.

7. In view of the above, the present petition is allowed. Thus, without commenting upon the merits of the case, lest it may prejudice the outcome of the trial, the petitioner-Krishan @ Lukki is ordered to be released on regular bail during the pendency of the trial on furnishing bail bonds/surety bonds to the satisfaction of Illaqa Magistrate/Trial Court.

8. 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.

**March 28, 2025**  
*manisha*

**(HARPREET SINGH BRAR)**  
**JUDGE**

- |      |                           |        |
|------|---------------------------|--------|
| (i)  | Whether speaking/reasoned | Yes/No |
| (ii) | Whether reportable        | Yes/No |