



CRM-M-820-2025
CRM-M-11906-2025

-2-

Sunil @ Shanu moved a complaint to the police alleging therein that on yesterday night at around 01:30 A.M., he was present on his cart. His friend Rakesh Rathi also came there. In the meantime, Jatin (the petitioner herein) and Sandeep @ Kachu, were making phone calls to Rakesh Rathi to come to the house of Satyam Chadha. Thereafter, on the asking of Rakesh Rathi, the complainant went with him at the shop of Satyam Chadha where, Sandeep @ Kachu, Jatin, Satyam Chadha, Manish (the petitioner herein) and one other boy were already present. The aforesaid persons attacked upon Rakesh Rathi with deadly weapons with an intent to kill him and thus, the present case.

Learned counsel for the petitioner(s) *inter alia* contends that it is a case of version and cross-version. The entire incident was captured in the CCTV footage which has been preserved by the Investigating Officer. The complicity of the petitioner(s) is falsified from the CCTV footage. Further, the injury for which the offence under Section 307 of IPC has been invoked is specifically attributed to the co-accused, namely, Sandeep @ Kachu. The petitioner, namely, Manish, has suffered incarceration of 01 year and 21 days and petitioner, namely, Jatin, has suffered incarceration of 01 year and 21 days and till date, not even a single prosecution witness has been examined out of 13.

The learned State counsel assisted by learned counsel for the complainant, has filed custody certificates in the Court today which are taken on record and per contra, opposes the grant of regular bail to the petitioner(s) on the ground that there are serious and specific allegations against the petitioner(s). The petitioner, namely, Manish, has inflicted injuries with beer



CRM-M-820-2025
CRM-M-11906-2025

-3-

bottle whereas, petitioner, namely, Jatin, was armed with an axe and he has inflicted injury on the middle finger of the injured. He further submit that the petitioners are involved in other cases also, as such, keeping in view their antecedental behaviour, they are not entitled to any relief.

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.”

Having heard learned counsel for the parties and after perusing the record of the case, it transpires that petitioners, namely, Manish and Jatin are behind the bars since 01.07.2024 and 27.06.2024, respectively. Investigation is complete. The final report under Section 173 Cr.P.C. was presented before the concerned Court and trial of the case has not made much progress as out of 13 prosecution witnesses, none has 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/petitioners. Keeping the petitioners in further



CRM-M-820-2025
CRM-M-11906-2025

-4-

detention without the prospect of the trial being concluded in the near future, would be violative of their rights under Article 21 of the Constitution of India.

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 petitioners in other cases would not be a ground to refuse grant of concession of regular bail.

In view the above, the present petitions are allowed. Thus, without commenting upon the merits of the case lest it may prejudice the outcome of the trial, the petitioners-Manish and Jatin, are ordered to be released on regular bail during trial on their furnishing bail bonds/surety bonds to the satisfaction of Illaqa Magistrate/Trial Court.

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.

A photo copy of this order be placed on the file of connected case.

(HARPREET SINGH BRAR)
JUDGE

22.07.2025

Neha

Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No