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IN THE HIGH COURT OF PUNJAB & HARYANA  
AT CHANDIGARH

CRM-M-28341-2025 (O&amp;M)

Date of Decision: 27.05.2025

FIAZ KHAN

...PETITIONER

Versus

STATE OF PUNJAB

...RESPONDENT

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Mr. Jaskamal Singh Grewal, Advocate  
for the petitioner.

Mr. Sandeep Kumar, DAG Punjab.

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

1. This is the first petition under Section 483 of Bhartiya Nagrik Suraksha Sanhita, 2023 for grant of regular bail to the petitioner in case bearing FIR No. 32 dated 01.04.2025 registered under Sections 126(2), 221, 226, 262, 132, 351(2), 190, 121(1) of Bhartiya Nyaya Sanhita, 2023 (hereinafter to referred as 'BNS') at Police Station Sandaur, District Malerkotla.

2. FIR(supra) was registered on the statement of Constable Kuljinder who stated that he was posted as an Investigating Officer in case bearing FIR number 22 dated 07.03.2025 registered under Sections 115(2), 118(1), 126(2), 351(2), 190, 191 of BNS at Police Station Sandaur, and he received a phone call from the informant that the accused of the FIR(supra) are roaming openly in the village, who are now standing near the dairy of accused Saber. On the previous day also, after the festival of Eid, the accused made a ruckus in the village and had tried to start a fight with the complainant party of the case again. Constable Kuljinder with the police party left from the police station and raided the abovesaid place in village Dhaddewara. Then, upon seeing the police party in uniform, Saber Khan, whom he know, came to the spot. He gathered about 50 to



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60 men and women from the surrounding area and started approaching the police party. Ban Khan pushed the Constable, due to which he fell down. Then the aforesaid 50 to 60 men and women surrounded the police party and started pushing and shoving, so he called other police officials to come to the spot. When police party reached at the spot, all the above persons also pushed and shoved them also, which occurrence, Constable Kuljinder and the other police officials, recorded on their mobile phones. The above persons besides Saber Khan, includes Badal Khan alias Badi, Baffi Khan, Khalid alias Motu, Fiyaz Khan, Irfan, Taru Khan, Bilal, Irfan, Lukwan, Zahid, Dhad, Behna, Sufan, Ladies Gogi, Bhilo wife of former Sarpanch and Sago along with many other unknown men and women, whose names he had come to know from the video recording made on his mobile phone.

3. Learned counsel for the petitioner *inter alia* contends that petitioner has been falsely implicated in the present case. Neither any specific injury nor any overt act has been attributed to the petitioner and on general and vague allegations, 50 to 60 persons have been implicated at the behest of the Investigating Officer. Similarly situated co-accused namely Sadhra Begum @ Bheelo, Ikhlak Khan @ Baffi Khan, Lukman Khan @ Lukwan, Khalid Khan @ Motu and Bilal Khan have been granted the concession of *ad interim* anticipatory bail by this Court vide orders dated 06.05.2025, 14.05.2025 and 16.05.2025 passed in CRM-M-24498-2025, CRM-M-26420-2025 and CRM-M-27068-2025 respectively. Further, the petitioner is having clean antecedents and he is not involved in any other case and the petitioner has no connection with the case bearing FIR No. 22 dated 07.03.2025 registered under Sections 115(2), 118(1), 126(2), 351(2), 190, 191 of BNS at Police Station Sandaur.



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4. Learned State counsel has filed the custody certificate of the petitioner and *per contra* opposes the prayer for grant of regular bail to the petitioner on the ground that petitioner along with co-accused have created hindrance in performance of duty of the Investigating Officer and as such, he is not entitled to grant of regular bail. However, he could not controvert the facts that co-accused Sadhra Begum @ Bheelo, Ikhlaq Khan @ Baffi Khan, Lukman Khan @ Lukwan, Khalid Khan @ Motu and Bilal Khan have been granted the concession of *ad interim* anticipatory bail by this Court vide orders dated 06.05.2025, 14.05.2025 and 16.05.2025 respectively.

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 for the last 01 month and 23 days. Similarly situated co-accused have already been granted the concession of *ad interim* anticipatory bail by this Court. 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.

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*

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*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 the discussion above, the present petition is allowed. Accordingly, without commenting upon the merits of the case, the petitioner-Fiaz Khan are ordered to be released on regular bail during pendency of the trial, on furnishing bail bonds/surety bonds to the satisfaction of Illaqa Magistrate/Trial Court/Duty Magistrate.

8. 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**

**27.05.2025**

Ajay Goswami

*Whether speaking/reasoned**Whether reportable**Yes/No**Yes/No*