



CRM-M-14431-2025 (O&amp;M)

1

217 IN THE HIGH COURT OF PUNJAB & HARYANA  
AT CHANDIGARHCRM-M-14431-2025 (O&M)  
Date of Decision: 21.03.2025

ANKUSH

...PETITIONER

Versus

STATE OF HARYANA

...RESPONDENT

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Mr. Rakesh Kumar Lathwal, Advocate  
for the petitioner.

Mr. Vikas Bhardwaj, AAG Haryana.

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

1. Prayer in this first petition filed under Section 439 Cr.P.C., is for grant of regular bail to the petitioner in FIR No.147 dated 12.04.2024 registered under Sections 302, 323, 449, 506, 120-B IPC (Section 201 IPC and Section 25 of the Arms Act, 1959, added later on) at Police Station Gannaur, District Sonapat.

2. The brief facts of the case are that Ramratti, wife of Sultan from Gandhi Nagar, Gannaur, reported an incident that occurred on 12.04.2024, at around 8:30 am that while she was sitting with her son Rakesh and Rohit along with her brother Balwan, Monu entered the house and used abusive language, and threatened to kill them if they demanded a SIM card again. Ramratti saw two boys, Sagar and Ankush (petitioner herein), standing outside the house on a motorcycle. She confronted Monu for his abusive language, but he pushed her, causing her to fall. When Rohit tried to stop him, Monu attacked him with a concealed knife, stabbing him in the abdomen. Sagar and Ankush shouted from outside, encouraging Monu to kill Rohit. Monu then continued to stab Rohit in the arms, chest, and abdomen. The noise drew neighbours to the scene, but

**CRM-M-14431-2025 (O&M)****2**

Monu, along with Sagar and Ankush, fled away from the spot on the motorcycle. Ramratti and her family rushed Rohit to the Government Hospital in Gannaur, where the doctor found his condition critical and referred him to BPS, Khanpur. Rohit passed away on the way. Thereafter, the impugned FIR was registered.

3. Learned counsel *inter alia* contends that similarly situated co-accused Sagar has been granted the concession of regular bail by this Court vide order dated 19.02.2025 passed in CRM-M-8422-2025 (Annexure P-1). Further, as per the case set up by the prosecution, Monu is the main accused, who gave fatal injuries to the deceased son of the complainant. The petitioner has not caused any injury and he is alleged to have been present at the spot along with co-accused Sagar and it would be a moot point to be determined by the learned trial Court as to whether the petitioner can be held liable for the offence punishable under Section 302 of Indian Penal Code with the aid of Section 120-B of IPC. Learned counsel further submits that there is a delay in registration of FIR(supra) and the petitioner is behind the bars since 12.04.2024.

4. Learned counsel for the petitioner further submits that there are total 20 prosecution witnesses cited in the list of witnesses, out of which, no PW has been examined till date and the trial is likely to take long time in conclusion.

5. 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 he is also involved in one more FIR. He further submits that petitioner was present at the spot at the time of alleged incident and he has instigated the main accused in committing the murder of the son of complainant and as such, there is sufficient material to prove his complicity, however, he could not controvert the fact that



**CRM-M-14431-2025 (O&M)**

**3**

petitioner is behind the bars since 12.04.2024 and co-accused Sagar has been granted the concession of regular bail by this Court vide order dated 19.02.2025.

6. 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 11 months and 08 days. 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. Out of 20 prosecution witnesses, no PW has been examined so far.

7. 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."*

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



**CRM-M-14431-2025 (O&M)**

**4**

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 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.

10. In view the discussion above, the present petition is allowed. Accordingly, without commenting upon the merits of the case, the petitioner namely Ankush is 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.

11. 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**

**21.03.2025**

*Ajay Goswami*

*Whether speaking/reasoned*  
*Whether reportable*

*Yes/No*  
*Yes/No*