

**CRM-M-10553-2025 (O&M)****1****227 IN THE HIGH COURT OF PUNJAB & HARYANA  
AT CHANDIGARH****CRM-M-10553-2025 (O&M)  
Date of Decision: 03.03.2025****DAVINDER KUMAR @ GOLDY****...Petitioner****Versus****STATE OF PUNJAB****...Respondent****CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR**

Present: Mr. Suram Singh Rana, Mr. Arvind Kumar Sharma and  
Mr. Dipanshu Kapur, Advocates for the petitioner.

Mr. Nitesh Sharma, DAG Punjab.

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

1. This is the first petition filed under Section 483 of Bhartiya Nagrik Suraksha Sanhita, 2023 seeking grant of regular bail to the petitioner in case bearing FIR No. 200 dated 03.11.2024 registered under Sections 110, 117(2), 115(2), 3(5), 351(3) of Bhartiya Nyaya Sanhita, 2023 (for short 'BNS') at Police Station Sadar District Hoshiarpur.
2. The complainant has levelled allegations that he is working as mason, having maternal house at village Bahadurpur Bahian, PS Sadar, Hoshiarpur. Few months back, he along with members of his family had come to village Bahadurpur Bahian in concern with his work. On 22.10.2024, the complainant along with members of family went to his village Talhan. On 27.10.2024, the complainant again went to his maternal village Bahadurpur Bahian, where he along with Varinder Kumar (cousin) went for walk towards fields of village Manan, where near motor, Vinod Kumar @ Vinodi, Vijay Kumar @ Sundi residents of village Bahadurpur Bahian, Nita of village Barre, Jasvir @ Ganja of village Naru Nangal, Golu of village Manan and some other



**CRM-M-10553-2025 (O&M)**

**2**

were boys playing cards and complainant and Varinder Kumar (cousin) also started playing cards with them. At about 11 P.M, Lakhwinder Singh @ Lakha, Davinder Kumar @ Goldy (petitioner herein) and Dalvir Pal @ Giani reached there and started playing cards with them. Later on Lakhwinder Singh @ Lakha and Davinder Kumar @ Goldy stopped playing cards with them, however Giani @ Dalvir Pal remained playing cards with them and at about 12.30 A.M on 28.10.2024, Dalvir Pal @ Giani while playing cards started abusing complainant and his cousin and they were stopped from doing so, whereupon Lakhwinder Singh and Davinder Kumar also started having altercation with the complainant. Lakhwinder Singh @ Lakha raised *lalkara* to caught hold of them and they be not left undone. Then Giani grappled complainant. Davinder @ Goldy gave two baseball bat blows on the head of complainant with an intention to kill him and Lakhwinder Singh @ Lakha gave *danda* blows continuously on the complainant hitting on the right side of his face upper denture, due to which he fell down. When the complainant was lying on the ground Davinder @ Goldy again gave baseball blow on his lips and mandible, Gian also gave kicks blows to the complainant. When Varinder (cousin) came forward to rescue complainant, the assailants gave threats to him and fled away from the spot. Varinder Kumar (cousin) after making arrangement of transportation took complainant to Civil Hospital, Hoshiarpur where he was medico legally examined and was referred to higher institute and he was taken to IVY Hospital, Hoshiarpur where operation of his mandible was conducted.

3. Learned counsel for the petitioner *inter alia* contends that as per the case set up by the prosecution, the petitioner has been attributed baseball bat blow on the head of the injured, which has been declared as simple in nature. Learned counsel further submits that both the petitioner and the co-accused



Lakhwinder Singh @ Lakha have been alleged to have given blows on the mandible of complainant with the blunt weapon and on the basis of opinion given by the dental surgeon, injuries No. 3, 4 and 7 suffered by the injured have been declared as grievous in nature. It is not specifically identifiable as to which injury suffered by the injured was given by the petitioner or the co-accused Lakhwinder Singh @ Lakha and further it would be a moot point to be determined by the learned trial Court as to whether grievous injuries are attributed to him or not. The incident as per the case set up by the prosecution has taken place all of a sudden and petitioner is not involved in any other case and he is behind the bars for the last about 04 months.

4. *Per contra*, learned State counsel filed the custody certificate, which is taken on record and opposes the prayer made by learned counsel for the petitioner on the ground that petitioner was duly named in the FIR and specific attribution is there against him and petitioner has given the grievous injury on the person of complainant as per opinion of the dental surgeon.

5. Having heard the learned counsel for the parties and after perusing the custody certificate, it transpires that petitioner is behind the bars since 05.11.2024 i.e. for 03 months and 22 days. Out of total 18 prosecution witnesses, none have been examined so far, therefore, the trial has not even started. Culpability, if any, would be determined at the time of the trial. The petitioner is not involved in any other case.

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 under-trial 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. In view of the above and without commenting upon the merits of the case, the present petition is allowed and the petitioner-Davinder Kumar @ Goldy is ordered to be released on regular bail, subject to his furnishing bail bonds/surety bonds to the satisfaction of CJM/Duty Magistrate concerned.

7. 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.

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

**03.03.2025**

*Ajay Goswami*

<i>Whether speaking/reasoned</i>	<i>Yes/No</i>
<i>Whether Reportable</i>	<i>Yes/No</i>