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his uncle, Harshdeep alias Takla attacked him with the *gandasi*. Thereafter, Chamkila and the petitioner beaten the complainant and his uncle and when they raised an alarm, all the accused persons fled away from the spot along with their weapons and thus, the instant FIR.

Learned counsel for the petitioner *inter alia* contends that similarly situated co-accused, namely, Chamkila, has been granted the concession of anticipatory bail by this Court passed in CRM-M-29707-2025. Further, the allegations against the petitioner are that he gave a stick blow on the left hand of the uncle of the complainant. Admittedly, no sharp edged weapon has been used in the alleged offence, however, the injury suffered by Vinod is on the non-vital part. Further, it is a case of version and cross-version. The son of Harshdeep Singh has also received injuries at the hands of the complainant party, however, the cross-version has not been registered by the jurisdictional police authorities. The petitioner has suffered incarceration for more than 04 months and 23 days and the investigation is complete.

The learned State counsel has filed custody certificate in the Court today which is taken on record and per contra, opposes the grant of regular bail to the petitioner on the ground that the petitioner has actively participated in the incidence and has been attributed specific role. However, he could not controvert the fact that the similarly situated co-accused, namely, Chamkila, has been granted the concession of anticipatory bail by this Court in CRM-M-29707-2025.

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 the petitioner is behind the bars since 14.02.2025. 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 17 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/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.

In view the above, the present petition is allowed. Thus, without commenting upon the merits of the case lest it may prejudice the outcome of



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the trial, the petitioner-Bittu Ram is ordered to be released on regular bail during trial on his 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.

(HARPREET SINGH BRAR)
JUDGE

08.07.2025

Neha

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