



**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

225

CRM-M-1969-2025 (O&M)

Date of decision: 03.03.2025

Gurmukh Singh

....Petitioner

Versus

State of Punjab

....Respondent

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Mr. K.S. Brar, Advocate
for the petitioner.

Mr. Nitesh Sharma, DAG, Punjab.

Mr. A.S. Sekhon, Advocate
for the complainant.

HARPREET SINGH BRAR J. (Oral)

CRM-5058-2025

Prayer in the instant application filed under Section 528 of BNS, 2023 is for placing on record the documents as Annexure P-5 to P-7.

Allowed as prayed for subject to all just exceptions.

CRM-M-1969-2025 (O&M)

1. Prayer in this petition filed under Section 483 of the BNS, 2023, is for grant of regular bail to the petitioner in FIR No.70 dated 27.05.2024 registered under Sections 324, 323, 447, 34 IPC (now Sections 118(1), 115(2), 329(3), 3(5) of the Bharatiya Nyaya Sanhita, 2023, (in short 'BNS, 2023') and Section 326 IPC (now Section 118(2) of BNS, 2023) added later on and offence under Section 302 IPC (now



Section 103 of BNS, 2023) vide DDR No.20 dated 16.07.2024 at Police Station Sadar Faridkot, District Faridkot.

2. The brief facts of the case are that Sharanpreet Kaur (complainant) reported that on 26.05.2024, her uncle Gurmukh Singh and brother Sukhmeet Singh forcibly attempted to take possession of her land, which was inherited by her after the death of her father, Balvir Singh, in the year 2010. The land was divided into five shares among the family, and after selling their shares in December, 2023, Sharanpreet and her mother continued to cultivate the remaining land. When Sharanpreet and her mother intervened, Sukhmeet instructed Gurmukh to attack them with a Kassi. Gurmukh hit Harpreet on the head and shoulder, causing her to fall, and attempted to attack Sharanpreet, but she avoided the blow. Later on, the accused attackers fled away from the spot and Harpreet Kaur (mother of the complainant) was taken to the hospital for treatment. Thereafter, the FIR (supra) was registered.

3. Learned counsel for the petitioner *inter alia* contends that admittedly the alleged occurrence had taken place on 26.05.2024 and the mother of the complainant, who received injuries was discharged in a satisfactory condition on 05.06.2024. Thereafter, the offence under Section 326 IPC was added on 16.07.2024. Learned counsel for the petitioner refers to the supplementary statement dated 26.10.2024 made by the complainant, recorded under Section 161 Cr.P.C., and submits that the perusal of the aforementioned statement clearly indicates that the deceased fell down from the scooter, which was being driven by the



complainant on 02.08.2024 and she suffered injury on the left side of her head and later on, the mother of the complainant passed away on 11.08.2024, on account of the injuries sustained by her. The cause of death in the post-mortem report is complications of cerebral compression, as a result of injury No.3, which is sufficient to cause death in an ordinary course of nature. Learned counsel for the petitioner has relied upon the post-mortem report and submits that injury Nos.1 and 2 were suffered by the deceased on 26.05.2024 whereas injury No.3 was suffered by the deceased after falling down from the Activa Scooter, which was driven by the complainant and in view of the specific opinion given by the Board of Doctors, the deceased had died due to injury No.3, which she suffered on 02.08.2024 and accordingly, the offence under Section 302 IPC was deleted on 08.11.2024 and the final report under Section 173 Cr.P.C., was presented on 11.11.2024 only under Section 326 IPC.

4. Learned counsel for the petitioner further submits that the petitioner is 65 years of age and is an Ex-Army personnel and he is having only 01 kidney and he is also suffering from age related ailments and the investigation is complete. There are total 25 prosecution witnesses cited in the list of witnesses, out of which, none has been examined till date and the trial is likely to take long time in conclusion.

5. *Per contra*, learned State counsel has filed custody certificate today in the Court which is taken on record and he, assisted by learned counsel for the complainant vehemently opposes the prayer



made by learned counsel for the petitioner on the ground that the second incident had taken place due to the injuries inflicted by the petitioner in the earlier incident and the deceased was not fully recovered and injury on the head of the deceased was declared grievous in nature, which was given by a sharp edged weapon, however, he could not controvert the fact that the petitioner is an Ex-Army personnel and out of 25 PWs, not even a single prosecution witness has been examined till date.

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 06 months and 11 days. Investigation is complete. The final report under Section 173 Cr.P.C. was presented before the concerned Court. Out of 25 prosecution witnesses, no PW has been examined so far.

7. A two Judge Bench of Hon'ble Supreme Court in "***Satender Kumar Antil vs. 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 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 the discussion above, the present petition is allowed. Accordingly, without commenting upon the merits of the case, the petitioner namely Gurmukh Singh, is ordered to be released on regular bail during pendency of the trial, on his furnishing bail bonds/surety bonds to the satisfaction of Illaqa Magistrate/Trial Court/Duty Magistrate.

10. 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

03.03.2025

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Whether speaking/reasoned: Yes/No

Whether reportable: Yes/No