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Sukha Bachi, Dev etc and Sukha Soldier, Kaari @ Onkar Singh, Raj Kumar @ Raju, Manpreet @ Money and Kaku were running the above said centre. They detained them in one room and used to provide food, intoxicants and medicines as per their wish and when they used to demand medicines and asked for their treatment, the accused persons used to beat them and advance threats to them. On 26.08.2024, the petitioner and Kaari used to maintain accounts work, Sukha used to bring the articles required at the centre and Manpreet Singh @ Money used to remain on surveillance on them. Manpreet Singh @ Money deputed him and Sukha Bachi on surveillance from 07:00 P.M. to 07:00 A.M. but at about 03:00 A.M., they had gone for sleep and after some time, they woke up. The petitioner along with Sukha and Kaku had seen them sleeping. Manpreet Singh @ Money and Kaari caught hold them and Sukha Soldier started beating him with dang whereas the petitioner started beating Sukha Bachi who later fell unconscious. Thereafter, his wounds got deteriorated and he was unable to move then was brought to Shakuntla Hospital, Kot Ise Khan and there he called his parents and all of the above accused persons ran away from the spot and thus, the present case.

Learned counsel for the petitioner *inter alia* contends that the petitioner has been falsely implicated in the present case and he is in custody since 04.01.2025. The investigation of the case is complete. Further, the injury for which the offence under Section 110 of BNS (earlier Section 308 of IPC) has been invoked is attributed to co-accused. The petitioner is only alleged to have caused a simple injury to witness, namely, Sukha and after registration of FIR (*supra*), a compromise has been effected between the parties which is available on record as Annexure P-2.



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Mr. Mandeep Kanwar, Advocate puts in appearance on behalf of the complainant and affirms the factum of compromise and submits that the complainant has no objection in case the present petition is allowed and the petitioner is enlarged on regular bail.

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 complicity of the petitioner is duly established and he is involved in one more case under the Excise Act. However, he could not controvert the fact that the petitioner is acquitted in 03 more cases under the NDPS Act.

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 04.01.2025. Investigation is complete. The final report under Section 173



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Cr.P.C. was presented before the concerned Court and trial of the case has not made much progress as out of 15 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.

Keeping in view the law laid down by the Hon'ble Supreme Court of India in '*Prabhakar Tewari Vs. State of U.P. and another*' 2020 (1) R.C.R. (Criminal 831) and '*Maulana Mohd. Amir Rashadi Vs. State of U.P. and Another*', 2012 (2) SCC 382, the involvement of the petitioner in other cases would not be a ground to refuse grant of concession of regular bail.

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 the trial, the petitioner-Raj Kumar @ Raju, 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

28.07.2025

Neha

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