



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

214+222

Date of decision: 21.05.2025

1. CRM-M-42978-2024

Mahadev

....Petitioner

Versus

State of Punjab

....Respondent

2. CRM-M-12953-2025

Sehdev

....Petitioner

Versus

State of Punjab

....Respondent

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Mr. Nitish Sharma, Advocate
for the petitioner in both the cases.

Mr. Sandeep Kumar, DAG, Punjab.

HARPREET SINGH BRAR J. (Oral)

1. Vide this common order, I intend to dispose of CRM-M Nos.42978 of 2024 and 12953 of 2025, as common questions of law and facts are involved for adjudication. For the sake of convenience, facts are taken from CRM-M-42978-2024.

2. Prayer in both these 2nd petitions filed under Section 439 of Cr.P.C. is for grant of regular bail to the petitioner(s) namely Mahadev and Sehdev in FIR No.47 dated 16.06.2023 registered under Sections 323, 324, 341, 427, 506, 148 and 149 IPC (Section 302 IPC added later on) at Police Station Nayagaon, District S.A.S. Nagar.

2025:PHHC:068114



3. The 1st petition(s) filed by the petitioner(s) was dismissed being not pressed on 14.05.2024 and these 2nd petitions have been filed due to change of circumstances as the material witnesses have been examined and they have not supported the case of the prosecution.

4. The brief facts of the case are that on the night of 15.06.2023, Ritu Kalyan, who lives in Janta Colony, Naya Gaon, was allegedly attacked by her neighbours, including Mahadev (petitioner) and Sahdev (petitioner), both sons of Ram Sanjeevan. Ritu alleged that at around 11:00 PM, the two brothers knocked on her door, asking to speak with her. When she came outside, they caught hold of her and Sahdev (petitioner) punched her and hit her with a stick, and Mahadev (petitioner) reportedly attacked her with a knife, injuring her right arm. When her mother and uncle came downstairs to help her, they were also beaten up. Her mother Babita was hit several times with a stick by Sehdev until she became unconscious. Ritu also said that her gold chain was snatched and her parked scooter was damaged. Thereafter, the impugned FIR was registered under Sections 323, 324, 341, 427, 506, 148 and 149 IPC. During the alleged incident, one Amit who came to rescue the complainant Ritu, also sustained injuries, and during the treatment, he had died. Thereafter, the offence under Section 302 IPC has been added in the FIR (supra).

5. Learned counsel for the petitioner(s) *inter alia* contends that the petitioner – Mahadev has not even participated in the alleged fight and he was not even present at the spot at the time of alleged

2025:PHHC:068114



incident. Even in the CCTV footage taken into possession by the investigating officer, the deceased Amit is nowhere seen. Further the supplementary statement (Annexure P-3) was made by the complainant after two days of the alleged occurrence in which she improved her earlier version and alleged that the petitioner – Mahadev caught hold the left hand of deceased Amit and co-accused Mandeep caught hold the deceased Amit from back and Ram Sanjivan started giving punch blows in his abdomen. Learned counsel for the petitioner(s) further submits that in the entire case set up by the prosecution, there is no specific attribution against the petitioner – Mahadev, except catching hold the deceased from his left hand. Learned counsel for the petitioner(s) contends that the petitioner – Sehdev has given stick blows to the mother of the complainant and no specific injury is attributed to the petitioner – Sehdev on the person of deceased – Amit.

6. Learned counsel for the petitioner(s) further submits that the complainant as well as the injured witness have been examined before the learned trial Court and they have been declared hostile. He has produced the certified copies of the deposition of the complainant and injured witness in the Court today, to substantiate the arguments on behalf of the petitioner(s).

7. Learned counsel for the petitioner(s) further submits that the petitioner – Mahadev is in custody since 11.07.2023 and petitioner – Sehdev is in custody since 19.09.2023 and there are total 20 prosecution witnesses cited in the list of witnesses, out of which, only 05 PWs have

2025:PHHC:068114



been examined till date and the trial is likely to take long time in conclusion.

8. *Per contra*, learned State counsel has filed custody certificates today in the Court which are taken on record and he opposes the prayer made by learned counsel for the petitioner(s) on the ground that the complicity of the petitioner(s) is duly established during the course of investigation, however, he could not controvert the fact that the petitioner(s) are not involved in any other case.

9. Having heard learned counsel for the parties and after perusing the record of the case, it transpires that the petitioner – Mahadev is behind the bars from the last 01 year and 10 months and 10 days and petitioner – Sehdev is behind the bars from the last 01 year, 08 months and 01 day. 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, only 05 PWs have been examined so far.

10. 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

2025:PHHC:068114



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.”

11. 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(s)-accused. Keeping the petitioner(s) in further detention without the prospect of the trial being concluded in the near future, would be violative of their rights under Article 21 of the Constitution of India.

12. In view the discussion above, the present petitions are allowed. Accordingly, without commenting upon the merits of the case, the petitioner(s) namely Mahadev and Sehdev are ordered to be released on regular bail during pendency of the trial, on their furnishing bail bonds/surety bonds to the satisfaction of Illaqa Magistrate/trial Court/Duty Magistrate.

13. 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.

2025:PHHC:068114



14. A photocopy of this order be placed on the file of other connected case.

(HARPREET SINGH BRAR)
JUDGE

21.05.2025
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Whether speaking/reasoned: Yes/No

Whether reportable: Yes/No