



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

234

CRM-M-49057-2024
Date of decision: 23.07.2025

Bishan @ Vishan

....Petitioner

Versus

State of Haryana

....Respondent

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Ms. Sharmila Sharma, Advocate
for the petitioner.

Mr. Vikas Bhardwaj, AAG, Haryana.

Mr. Ashok Kaushik, Advocate
for the complainant.

HARPREET SINGH BRAR J. (Oral)

1. Prayer in this petition filed under Section 483 of the BNSS, 2023, is for grant of regular bail to the petitioner in FIR No.141 dated 30.03.2024 registered under Sections 302, 120-B and 34 IPC and Section 25 of the Arms Act, at Police Station Chandhut, District Palwal.

2. In brief, the facts of the case are that in the evening of 29.03.2024, in pursuance to an information that a murder had taken place in village Kulena, the police party reached there and found dead body of Umesh, a resident of said village. Accordingly a complaint was moved by Luxman, who being father of deceased disclosed that on 26.03.2024, a dispute had taken place in village between '2' groups and in order to settle the matter Umesh (since deceased) intervened. Further, as per complainant's version, in the said dispute, one faction was of



"Naresh & Dinesh" sons of Radhey, they are habitual criminals as in the past many cases were lodged against them. Since Umesh tried to get their matter settled, he was threatened to be killed by Naresh. Repeated threatening telephonic calls were received by deceased. Further, as per complainant's version on 29.03.2024, at about 2:00 in the afternoon, Bishan (petitioner herein) came to the house of complainant and persuaded Umesh to accompany him so as to sort out the matter with Naresh and others. Accordingly, Umesh left the house on motorcycle of Bishan and reached the fields where Naresh, Dinesh, Naveen, Mohit, Umakant, Bhudev, Lukki @ Krishan, Sonu and Nijja were already present and one of them fired at Umesh, as a result of which, he had died there. Thereafter, the impugned FIR was registered.

3. Learned counsel for the petitioner *inter alia* contends that as per the case set up by the complainant, the deceased Umesh had a dispute with Naresh and Dinesh both sons of Radhe, who were habitual criminals. Naresh had threatened the deceased that he would kill him and repeated threatening calls were also received by the deceased. Further the petitioner has been falsely implicated in the FIR (supra) and there is a delay of 24 hours in registration of the FIR (supra). Initially, the complainant had refused to record his statement and only allegation against the petitioner is that he came to the house of the deceased and took him along on the pretext of resolving the dispute amicably with Naresh and others and as such, the deceased had left the house with the petitioner. Further as per the eye-witness Hukam Chand, the co-accused



Sonu @ Nijja, had fired upon the deceased, as a result of which he had died. Moreover, the weapon of offence and the motorcycle used in the crime have already been recovered from co-accused Naveen.

4. Learned counsel for the petitioner further submits that the petitioner is not involved in any other case. Further, it would be a moot point to be decided during the course of trial, whether the offence under Section 302 with the aid of Sections 34 or 120-B IPC, is made out or not. Further, one of the co-accused of the petitioner namely Krishan @ Lukki, has already been granted the concession of regular bail by this Court vide order dated 28.03.2025 passed in CRM-M-16089-2025. There are total 20 prosecution witnesses cited in the list of witnesses, out of which, 05 PWs have 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 along with learned counsel for the complainant, vehemently opposes the prayer made by learned counsel for the petitioner on the ground that the petitioner has played an active role in commission of alleged offence. The petitioner in conspiracy with the main accused has allured the deceased to accompany him, rather it was a trap to eliminate the deceased, however, learned State counsel could not controvert the fact that the petitioner is not involved in any other case.

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 01 year, 03 months and 23 days. 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, 05 PWs have 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 of the above discussions, the present petition is allowed. Accordingly, without commenting upon the merits of the case, the petitioner namely Bishan @ Vishan is ordered to be released on regular bail during pendency of the trial, on 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

23.07.2025

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Whether speaking/reasoned: Yes/No

Whether reportable: Yes/No