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

CRM-M-51116-2024

Date of decision: 22.04.2025

Salman

....Petitioner

Versus

State of Haryana

...Respondent

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR**Present:** Mr. Kunal Dawar, Advocate and
Mr. Rohit Rana, Advocate
for the petitioner.

Mr. Vikas Bhardwaj, AAG, Haryana.

Mr. Shiv Kumar, Advocate
for the complainant.**HARPREET SINGH BRAR, J. (ORAL)**

The present petition has been filed under Section 439 Cr.P.C. seeking regular bail in case bearing FIR No.247 dated 20.04.2024 under Sections 147/149/323/307/302/506 of IPC (challan presented under Sections 323/325/302/506/34/201 of IPC) registered at Police Station Saran Faridabad, Haryana (Annexure P-1).

Brief facts of the case are that on 19.04.2024, the complainant was sitting on his shop along with his friend, namely, Harkesh and brother, namely, Satya Parkash and at around 11:30 P.M., the accused, namely, Gaurav along with two unknown persons, came in a white coloured Dzire Car under the influence of liquor, and due to his dispute with the complainant about one and a half months ago and due to this enmity, he came at the spot and started abusing the complainant and his brother. It is further alleged that when the friend of the complainant objected to it, the accused, Gaurav, called other accused persons



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telephonically and about 5-6 persons came on motorcycles armed with iron rod, *lathi* and *danda*. Thereafter, Gaurav picked up a rod from his car and started assaulting the complainant, his brother and his friend and he was addressing other accused persons as Kalu, Kamal and Cheeku and exhorted to kill the complainant, his brother and his friend and thereafter, all the accused persons fled away by extending threats to them and thus, the instant FIR.

Learned counsel for the petitioner *inter alia* contends that initially in the FIR (*supra*), four persons were nominated by name and the petitioner was not named in the FIR. Further, as per the case set up by the prosecution, the petitioner is not alleged to have given any injury on the deceased, namely, Satya Parkash. The petitioner has been nominated as an accused after 10 days on the basis of self-incriminating disclosure statement. He further refers to the disclosure statement and submits that the petitioner is alleged to have given beating to the witnesses, namely, Neeraj and Harkesh. Still further, no specific injury has been attributed to the petitioner. He is behind the bars since 13.04.2024 and it would be a moot point to be determined by the learned trial Court whether the petitioner can be held liable for an offence under Section 302 of IPC, especially, when the final report under Section 193 of BNSS (earlier Section 173 of Cr.P.C.) filed against the petitioner is only under Sections 325/34 of IPC.

The learned State counsel assisted by learned counsel for the complainant, has filed custody certificate in the Court today which is taken on record and per contra, vehemently opposes the grant of regular bail to the petitioner on the ground that the perusal of the FIR (*surpa*) indicates that the complainant has mentioned four persons along with some unknown persons



have attacked the deceased and the witnesses and the petitioner has played an active role in causing injuries to the witnesses and his complicity is duly proved. However, he could not controvert the fact that the petitioner is not involved in any other case.

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 30.04.2024. 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 only 01 out of 20 prosecution witnesses, has been

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partly 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 the trial, the petitioner-Salman 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

22.04.2025*Neha*

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