



CRM-M-7025-2025 and all connected cases

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6)

CRM-M-20319-2025

Shivam @ Gunga

....Petitioner

Versus

State of Punjab

...Respondent

7)

CRM-M-26146-2025

Vipan Kumar

....Petitioner

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Mr. Sandeep Arora, Advocate
for the petitioner (in CRM-M-7025-2025 &
CRM-M-26916-2024).

Mr. Fatehjeet Singh, Advocate
for the petitioners (in CRM-M-26623-2024 and
CRM-M-6746-2025).

Mr. Sumit Dua, Advocate
for the petitioners (in CRM-M-13758-2025; CRM-M-20319-2025
& CRM-M-26146-2025).

Mr. Sandeep Kumar, DAG, Punjab.

HARPREET SINGH BRAR, J. (ORAL)

This common order shall dispose of the aforementioned petitions as they arise from a similar factual matrix. However, for the sake of brevity, the facts are taken from CRM-M-7025-2025.

The present petition(s) has been filed under Section 483 of Bharatiya Nagarik Suraksha Sanhita, 2023 seeking regular bail in case bearing FIR No.317 dated 14.11.2023 under Sections 302/148/149 of IPC and Sections 25/27 of Arms Act (Section 120-B of IPC added later on) registered at Police Station Rama Mandi District Police Commissionerate, Jalandhar.

Succinctly, the facts of the case are that on 16.07.2021 at around 05:30 P.M., when the complainant was cleaning back side of his house, Sarabjit



Singh cultivated land on back side of his house and his wife raised slogan to teach complainant a lesson. In the meanwhile, Lakhan Kesar armed with rod and Sarabjit Singh armed with *sotta* came towards the complainant. Sarabjit Singh caught hold of complainant, whereas, Lakhan Kesar gave a rod blow on the head of the complainant and again gave two more blows on his head due to which he fell down and became unconscious and thus, the present FIR.

Learned counsel for the petitioner(s) *inter alia* contends that the similarly situated co-accused, namely, Lakhan Kesar alias Lakhan has been granted the concession of regular bail by this Court vide order dated 17.01.2025 passed in CRM-M-24624-2024 titled as 'Lakhan Kesar alias Lakhan Vs. State of Punjab' (Annexure P-2). The case of the petitioner(s) is at par. Admittedly, the main accused is Pawan Kumar @ Rattan who has used the fire arm and murdered the deceased with a country made pistol. There is no further corroborative evidence either forensic or otherwise to connect the petitioner(s) with the alleged crime. It would be a moot point to be determined by the learned trial Court whether the petitioner(s) can be held liable for an offence under Section 302 of IPC with the aid of Sections 148/149 of IPC. The investigation of the case is complete. The petitioner(s) is behind the bars since 29.11.2023 and in spite of the fact that the FIR (*supra*) was registered 20 months ago, out of 33 witnesses, not even a single prosecution witness has been examined till date.

The learned State counsel has filed custody certificates in the Court today which are taken on record and per contra, opposes the grant of regular bail to the petitioner(s) on the ground that the complicity of the petitioner(s) is duly established during investigation and they have played an



active role in the commission of the crime, as such, the petitioner(s) are not entitled to any relief. Further, some of the petitioners are also involved in other cases and keeping in view their criminal antecedents, they are not entitled to any relief. However, he could not controvert the fact that the main accused who has used the country made pistol in committing the murder of the deceased was provided by Lakhan Kesar alias Lakhan who has been granted the concession of regular bail by this Court on 17.01.2025.

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(s) is behind the bars since 29.11.2023. 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 out of 33 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(s). Keeping the petitioner(s) in further detention without the prospect of the trial being concluded in the near future, would be violative of his/their 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(s) in other cases would not be a ground to refuse grant of concession of regular bail.

In view the above, the present petitions are allowed. Thus, without commenting upon the merits of the case lest it may prejudice the outcome of the trial, the petitioner-Sanjay, Rajesh Kumar @ Raju, Shubham @ Shiva, Saurav, Ravi Kumar @ Bakra, Shivam alias Gunga and Vipin Kumar, are ordered to be released on regular bail during trial on their 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.

A photo copy of this order be placed on the file of connected cases.

(HARPREET SINGH BRAR)
JUDGE

11.07.2025

Neha

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