



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

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**CRM-M-2655-2025 (O&M)
Date of decision: 17.07.2025**

Kamal

....Petitioner

Versus

State of Haryana

....Respondent

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Mr. R.S. Bajwa, Advocate
for the petitioner.

Mr. Vikas Bhardwaj, AAG, Haryana.

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.0158 dated 07.06.2024 registered under Sections 323, 324, 34, 341, 506 IPC (Section 307 IPC added later on) at Police Station Safidon, District Jind.

2. As per the prosecution case, on 05.06.2024 at about 10:00 PM, Kamal son of Shamsher was attacked outside his house by four boys from his village namely Sandeep, Kamal son of Balmat (petitioner herein), Hardeep, and one unknown person, with swords and gandasas. Sandeep attacked on Kamal's left leg twice with a sword, Kamal (petitioner herein) hit his right leg with a gandasa, and the others assaulted him with kicks and fists. The attack was allegedly made due to a past grudge involving Sandeep and Kamal's maternal uncle's daughter. Kamal suffered serious injuries, including amputation of his



left leg above the knee. Thereafter, the accused were arrested, weapons were recovered and the impugned FIR was registered.

3. Learned counsel for the petitioner *inter alia* contends that the petitioner has been falsely implicated in the FIR (supra). The main accused is Sandeep, who gave the injury on the right leg, i.e. non-vital part, of complainant/victim, for which the offence under Section 307 IPC has been invoked. The petitioner is alleged to have caused simple injury on the person of complainant. Further even the invocation of Section 307 IPC is debatable in view of the specific medical opinion. The leg of the complainant was amputated due to gangrene and as such, it would be a moot point to be decided by the learned trial Court, during the course of trial, whether the offence under Section 307 IPC, is made out or not.

4. Learned counsel for the petitioner further submits that the petitioner is in custody from the last 01 year and 20 days and there are total 20 prosecution witnesses cited in the list of witnesses, out of which, no PW has 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 and status report by way of affidavit of Gourav Sharma, Deputy Superintendent of Police, Safidon, District Jind, today in the Court which are taken on record and he opposes the prayer made by learned counsel for the petitioner on the ground that the petitioner has been specifically named in the FIR and specific role has been attributed



to him that he has given injury with a gandasa on the right leg of the complainant, however, he could not controvert the fact that the injury attributed to the petitioner is simple in nature.

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 and 20 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, no PW has 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 Kamal 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

17.07.2025

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Whether speaking/reasoned: Yes/No

Whether reportable: Yes/No