

**CRM-M-15332-2025 (O&M)****1****223****IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH****CRM-M-15332-2025 (O&M)****Date of Decision: 25.03.2025****SARDAR SINGH****...PETITIONER****Versus****STATE OF PUNJAB****...RESPONDENT****CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR**

Present: Mr. Ashutosh Gupta, Advocate and
Mr. Hitesh Grewal, Advocate for the petitioner.

Mr. Nitesh Sharma, DAG Punjab.

Harpreet Singh Brar, J. (Oral)

1. This is the first petition filed under Section 483 of Bhartiya Nagrik Suraksha Sanhita, 2023 seeking grant of regular bail to the petitioner in case bearing FIR No. 290 dated 10.11.2024 registered under Sections 115(2), 118(1), 126(2), 351(2), 351(3), 191(3), 190, 331(6) of Bhartiya Nyaya Sanhita, 2023 at Police Station Tripri (Tripuri) Patiala.

2. The FIR(supra) has been lodged on the basis of statement of Makhan Singh, who stated that he used to sell clothes in villages. They are four siblings. He was married, and his wife's name is Paramjit Kaur. They have two daughters. On 08.11.2024, his younger brother Avrinder Singh's wedding was scheduled, so on 07.11.2024, they were celebrating the pre-wedding ceremony (Jago). At around 09:30 PM, when he was standing outside his house then his neighbour Bira alias Gori, standing outside his house with his mother Raj Kaur and father Sardar Singh Sardari (petitioner herein), in anger told him to stand ahead and also abused him. Due to the function at the complainant's house, he did not respond. Later, Bira's mother told him to hit the complainant with something. His cousin Shamsheer Singh arrived, and Gori and his family

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used abusive language towards him as well. Complainant side did not respond and went inside their house. Gori called someone on the phone while abusing him. After about half an hour, Gori's real brother Manjit Singh alias Mani Dana, Prince, Valaiti, and their relative Lakhan, along with 7-8 unidentified persons, arrived on three motorcycles. They parked their motorcycles outside their house and entered inside with sticks, rods, and swords. Mani and Gori were holding swords. Their mother Raj Kaur and father Sardar Singh Sardari-petitioner also entered their house with sticks. Gori attacked his head with a sword. Manjit alias Mani Dana attacked on his wife's head with a sword. When he attacked again, his wife raised her hand to protect herself, and the sword hit her left thumb and finger. Lakhan hit his left hand with a baseball bat and also hit his wife's legs with the bat. The other 7-8 unidentified persons and Gori's parents surrounded them and beaten them severely, and also attacked upon them with swords. When they shouted for help, Mani and Gori grabbed his wife by her hair and beaten her, and fled away along with their weapons by threatening to kill them. Their relatives took them to Rajindra Hospital, Patiala, for treatment due to severe injuries and excessive bleeding. On the basis of aforesaid allegations, FIR(supra) was registered.

3. Learned counsel for the petitioner *inter alia* contends that petitioner has been falsely implicated in the present case for the reason is that he is father of the main accused. Further all the offences are triable by Magistrate and all the offences are bailable in nature except the offence under Section 331(6) of BNS 2023. Yet, both the Courts below have not granted regular bail to the petitioner and there is nothing on record to indicate that petitioner along with other accused have unlawfully trespassed into the house of the complainant. Moreover, injuries suffered by the complainant are simple in nature. The petitioner is



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behind the bars since 21.11.2024 and suffering incarceration for more than 04 months. He is not involved in any other case. Additionally, similarly situated co-accused Lakhanpal Singh has been granted the concession of interim anticipatory bail by this Court vide order dated 17.03.2025 passed in CRM-M-14151-2025 and there is a delay of 03 days in registration of FIR(supra).

4. Learned State counsel filed the custody certificate, which is taken on record and *per contra* opposes the prayer made by learned counsel for the petitioner on the ground that petitioner has played active role in the alleged occurrence and he along with other accused have trespassed into the house of the complainant and given injuries to him. However, he could not controvert the fact that petitioner is not involved in any other case and the case is triable by Magistrate.

5. Having heard the learned counsel for the parties and after perusing the custody certificate, it transpires that petitioner is behind the bars since 21.11.2024 i.e. for 04 months and 03 days as on 24.03.2025 and trial of the case has not even started as not even a single prosecution witness has been examined till date. No useful purpose will be served by keeping the petitioner in further incarceration. Culpability, if any, would be determined at the time of the trial. 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 under-trial 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

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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.”

6. In view of the above, and without commenting upon the merits of the case, the present petition is allowed and the petitioner-Sardar Singh is ordered to be released on regular bail, subject to his furnishing bail bonds/surety bonds to the satisfaction of CJM/Duty Magistrate concerned.

7. 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

25.03.2025*Ajay Goswami**Whether speaking/reasoned**Whether reportable**Yes/No**Yes/No*