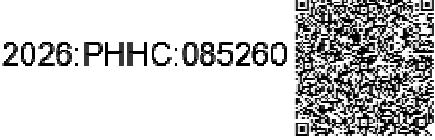


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IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH
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Shahid
....Petitioner
Versus
State of Haryana
...Respondent

Date of Decision: May 29, 2026
Date of Uploading: May 29, 2026

CORAM: HON’BLE MR. JUSTICE SUMEET GOEL
Present:- Mr. Shivam Chaudhary, Advocate for the petitioner.
Mr. Gurmeet Singh, AAG Haryana.

SUMEET GOEL, J. (ORAL)

Present third petition has been filed under Section 483 of the BNSS seeking grant of regular bail to the petitioner, in case bearing FIR No.357 dated 06.09.2024, registered for the offences punishable under Sections 61(2)(a), 109(1), 351(2), 308(4), 111(1), 111(3), 111(4), 111(6) of the BNS, 2023 and Sections 25(1)(b)(a), 25(6), 25(1B)(c) and 27(1) of the Arms Act, 1959, at Police Station Pundri, District Kaithal.

2. The gravamen of the FIR in question is that complainant, namely, Rajender Kumar, alleged that on 31.08.2024, he received a WhatsApp call from an international number, wherein the caller informed him that he had become a rich man and that the matter was to be settled with him. He did not disclose the incident to anyone. Thereafter, on 05.09.2024 at about 11:20 a.m., while he was at his house, two youths arrived on a motorcycle and opened fire at him with an intention to kill. Approximately ten shots were fired. The complainant escaped

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unhurt by immediately falling to the ground. Before fleeing from the spot, the assailants allegedly threatened him with dire consequences.

3. Learned counsel for the petitioner has argued that the petitioner is in custody since 19.09.2024. Learned counsel has iterated that the petitioner has been falsely implicated into the FIR in question. Learned counsel has urged that prime prosecution witness, namely, Rajender Kumar (FIR-complainant) stands examined and has turned hostile. Learned counsel has urged that the prime allegation against the petitioner is of supplying the fire arms used in the offence in question. Learned counsel has further urged that name of the petitioner does not figure in the FIR and it is later on surfaced on disclosure-statement. Learned counsel has urged that the petitioner has already suffered incarceration for more than 01 year and 08 months and is a man with clean antecedents. Thus, regular bail is prayed for.

4. Learned State counsel, while raising submissions in tandem with the reply by way of an affidavit dated 20.04.2026 (already on record), has opposed the present petition by arguing that allegations raised against the petitioner are serious in nature and, thus, the petitioner does not deserve the concession of the regular bail. Learned State counsel has further submitted that in case, the petitioner is granted concession of regular bail, there is all likelihood that he may abscond from the process of justice and also interfere/ intimidate the prosecution evidence/ witnesses. Learned State counsel seeks to place on record the custody certificate dated 26.05.2026, in the Court today, which is taken on record.

5. I have heard counsel for the parties and have gone through the available records of the case.

6. The petitioner was arrested on 19.09.2024, whereinafter, the investigation was carried out and the challan has been presented on 18.01.2025. Out of total 28 cited prosecution witnesses, 04 have been examined and 01 has been given up till date.

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At this juncture, it would be apposite to refer herein a judgment of the Hon'ble Supreme Court in ***Javed Gulam Nabi Shaikh vs. State of Maharashtra and anothers, 2024(3) RCR (Criminal) 494***, which reads thus:

“18. Criminals are not born out but made. The human potential in everyone is good and so, never write off any criminal as beyond redemption. This humanist fundamental is often missed when dealing with delinquents, juvenile and adult. Indeed, every saint has a past and every sinner a future. When a crime is committed, a variety of factors is responsible for making the offender commit the crime. Those factors may be social and economic, may be, the result of value erosion or parental neglect; may be, because of the stress of circumstances, or the manifestation of temptations in a milieu of affluence contrasted with indigence or other privations.

19. If the State or any prosecuting agency including the court concerned has no wherewithal to provide or protect the fundamental right of an accused to have a speedy trial as enshrined under Article 21 of the Constitution then the State or any other prosecuting agency should not oppose the plea for bail on the ground that the crime committed is serious. Article 21 of the Constitution applies irrespective of the nature of the crime.

20. We may hasten to add that the petitioner is still an accused; not a convict. The over-arching postulate of criminal jurisprudence that an accused is presumed to be innocent until proven guilty cannot be brushed aside lightly, howsoever stringent the penal law may be.

21. We are convinced that the manner in which the prosecuting agency as well as the Court have proceeded, the right of the accused to have a speedy trial could be said to have been infringed thereby violating Article 21 of the Constitution.”

The rival contention raised at Bar give rise to debatable issues, which shall essentially be ratiocinated upon during the course of trial. This Court does not deem it appropriate to delve deep into these rival contentions, at this stage, *lest* it may prejudice the trial. Nothing tangible has been brought forward to indicate the likelihood of the petitioner absconding from the process of justice or interfering with the prosecution evidence.

6.1. Indubitably, the present petition is the third attempt by the petitioner to secure regular bail. The first bail plea was dismissed as withdrawn on 20.05.2025, *whereas*, the second plea was dismissed as withdraw on 02.09.2025. It is also not in dispute that the prime prosecution witness, namely, Rajender Singh (FIR-complainant) stands examined and he has turned hostile. However, keeping

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in view the entirety of the factual matrix of the case in hand; especially, factum of the petitioner having suffered extended incarceration & pace of trial; this Court is inclined to affirmatively consider the instant plea for bail. A profitable reference, in this regard, can be made to a judgment of this Court passed in **CRA-S-2332-2023** titled as **Rafiq Khan versus State of Haryana and another**, relevant whereof reads as under:

“10. As an epilogue to the above discussion, the following principles emerge:

I Second/successive regular bail petition(s) filed is maintainable in law & hence such petition ought not to be rejected solely on the ground of maintainability thereof.

II. Such second/successive regular bail petition(s) is maintainable whether earlier petition was dismissed as withdrawn/dismissed as not pressed/dismissed for non-prosecution or earlier petition was dismissed on merits.

III For the second/successive regular bail petition(s) to succeed, the petitioner/applicant shall be essentially/pertinently required to show substantial change in circumstances and showing of a mere superficial or ostensible change would not suffice. The metaphoric expression of seeking second/successive bail plea(s) ought not be abstracted into literal iterations of petition(s) without substantial, effective and consequential change in circumstances.

IV No exhaustive guidelines can possibly be laid down as to what would constitute substantial change in circumstances as every case has its own unique facts/circumstance. Making such an attempt is nothing but an utopian endeavour. Ergo, this issue is best left to the judicial wisdom and discretion of the Court dealing with such second/successive regular bail petition(s).

V In case a Court chooses to grant second/successive regular bail petition(s), cogent and lucid reasons are pertinently required to be recorded for granting such plea despite such a plea being second/successive petition(s). In other words, the cause for a Court having successfully countenanced/entertained such second/successive petition(s) ought to be readily and clearly decipherable from the said order passed.”

Suffice to say, further detention of the petitioner as an undertrial is not warranted in the facts and circumstances of the case.

7. In view of above, the present petition is **allowed**. Petitioner is ordered to be released on regular bail, if not required in any other case, on his furnishing bail/surety bonds to the satisfaction of the Ld. concerned CJM/Duty

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Magistrate. However, in addition to conditions that may be imposed by the concerned CJM/Duty Magistrate, the petitioner shall remain bound by the following conditions:

- (i) The petitioner shall not mis-use the liberty granted.
- (ii) The petitioner shall not tamper with any evidence, oral or documentary, during the trial.
- (iii) The petitioner shall not absent himself on any date before the trial.
- (iv) The petitioner shall not commit any offence while on bail.
- (v) The petitioner shall deposit his passport, if any, with the trial Court.
- (vi) The petitioner shall give his cellphone number to the Investigating Officer/SHO of concerned Police Station and shall not change his cell-phone number without prior permission of the trial Court/Illaqa Magistrate.
- (vii) The petitioner shall not in any manner try to delay the trial.

8. In case of breach of any of the aforesaid conditions and those which may be imposed by concerned CJM/Duty Magistrate as directed hereinabove or upon showing any other sufficient cause, the State/complainant shall be at liberty to move cancellation of bail of the petitioner.

9. Ordered accordingly.

10. Nothing said hereinabove shall be construed as an expression of opinion on the merits of the case.

11. Since the main case has been decided, pending miscellaneous application, if any, shall also stands disposed off.

(SUMEET GOEL)
JUDGE

May 29, 2026

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Whether speaking/reasoned: Yes/No

Whether reportable: Yes/No