



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

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CRM-M-31717-2026 (O&M)

Date of decision : 10.09.2026

NISHANT

... Petitioner

Versus

STATE OF HARYANA

...Respondent

CORAM: HON'BLE MRS. JUSTICE MANISHA BATRA

Present: Mr. Lokesh Sharma, Advocate for the petitioner

Mr. Neeraj Poswal, AAG, Haryana

MANISHA BATRA, J. (ORAL)

1. The instant one is the second petition filed by the petitioner under Section 483 of Bharatiya Nagarik Suraksha Sanhita, 2023 (for short “BNSS”) for grant of regular bail in case arising out of FIR No.276 dated 25.12.2022 registered under Sections 302, 120B and 34 of IPC (Sections 394, 397, 201 and 404 of IPC and Section 25 of Arms Act added later on) at Police Station Bahu Akbarpur, Rohtak, District Rohtak. His previous petition bearing No.CRM-M-9257-2025 was dismissed by this Court vide order dated 24.03.2025 by making the following observations :-

The petitioner is alleged to have hatched a conspiracy with the co-accused Sachin and in pursuance thereof, he is alleged to have committed murder of the victim. The complainant Rohit Arora has been examined before the learned trial Court as PW-1. Copy of his sworn deposition as well as other family members



of the victim, have been produced on record and the same show that none of them has made any deposition as against the petitioner. However, since neither of them was an eye-witness to the murder of the victim, therefore, no benefit can be taken of the fact that they have not identified the petitioner as one of the assailants. The allegations against the petitioner are quite serious in nature. The knife used by the petitioner for causing injuries to the victim resulting in his death, has been recovered at his instance. Keeping in view the nature of the accusations as levelled against the petitioner, the quantum of sentence which the conviction may entail and the attendant facts and circumstances but without meaning to make any comment on the merits of the case, I am of the considered opinion that the petition does not deserve to be allowed at this stage. Hence, the same is dismissed.

2. It is argued by learned counsel for the petitioner that he has been falsely implicated in this case. He has suffered prolonged incarceration for a period of over 03 years 08 months by now. The chances of conclusion of trial in near future are still bleak as only 16 out of 31 prosecution witnesses have been examined so far. He was nominated as an accused on the basis of disclosure statement of the co-accused and there is no eyewitness to the occurrence. Each day spent by him in custody has furnished a ground afresh to seek concession of bail. His prolonged incarceration militates against his



fundamental rights guaranteed under Article 21 of the Constitution of India. No useful purpose would be served by detaining him in custody anymore. The complainant, Rohit Arora, and another material witness, Nirbhay Singh, have since been examined and have not implicated the petitioner in commission of the subject offences. It is, therefore, argued that the petition is maintainable and he deserves to be extended benefit of bail.

3. *Per contra*, learned State counsel has argued that the petitioner is accused of commission of a heinous crime of murder. It is further submitted that the petition being a successive one is not maintainable and has further argued that taking into consideration the gravity of the allegations, the petitioner does not deserve to be extended benefit of bail.

4. This Court has heard the rival submissions made by learned counsel for the parties.

5. So far as the question of maintainability of this petition being successive one is concerned, it may be mentioned that, an accused has a right to move successive bail application for grant of bail and it is the duty of the Court, while entertaining such a subsequent bail application, to consider that any fresh ground which persuade it to take a view different from the one taken in the earlier application is made out or not. It is also required to be noted that every day spent by an accused in custody provides a new cause of action for filing a bail application under certain circumstances. He cannot be



kept in custody for indefinite period and the bail application can be considered even if it is filed repeatedly. The denial of bail comes with a condition that the prosecution must press for early completion of the trial. The petitioner is alleged to have hatched a conspiracy with the co-accused and in pursuance thereof, is alleged to have committed murder of the victim. The petitioner has suffered incarceration for a period of more than 03 years and 08 months. The trial is still likely to take considerable time to conclude as substantial number of prosecution witnesses are still remained to be examined. It is equally well settled that deprivation of personal liberty without ensuring speedy trial is not in consonance with the right guaranteed by Article 21 of the Constitution of India. In *Javed Gulam Nabi Shaikh vs The State of Maharashtra and another 2024(9) SCC 813*, the Hon'ble Apex Court had observed that howsoever, serious a crime may be, an accused has a right to speedy trial. Bail is not to be withheld as a punishment. It was also observed that 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. It is also well-settled that the object of bail is to secure the attendance of the accused at the trial and the proper test to be applied is in the solution of the question is whether the bail should be granted or refused or whether it is



probable that the party will appear to take its trial and it is indisputable that bail is not to be withheld as a punishment.

6. Reliance can also be placed upon the observations made by Hon'ble Supreme Court in ***Gurbaksh Singh Sibba v. State of Punjab***, (1980) 2 SCC 565 to the effect that the object of bail is to secure the attendance of the accused at the trial and the proper test to be applied in the solution of the question whether the bail should be granted or refused or whether it is probable that the party will appear to take its trial and it is indisputable that the bail is not to be withheld as a punishment.

7. So far as the question of prolonged incarceration and inordinate delay in conclusion of the trial is concerned, the Hon'ble Supreme Court in ***Satender Kumar Antil v. Central Bureau of Investigation***, (2022) 10 SCC 51 had observed that the provisions contained in Section 436A of Cr.P.C. which requires *inter alia* the accused to be enlarged on bail if the trial is not conclude within specified period, would apply to under-trial prisoners as well in the absence of any specific provisions. The petitioner is in custody since 27.12.2022. Only 16 out of 31 prosecution witnesses have since been examined. There is nothing on record to show that delay in any manner is attributable to him. Taking into consideration the period spent by the petitioner in custody, the fact that trial is not likely to be conclude shortly, the clean antecedents of the petitioner and the facts and circumstance peculiar to this case, the petition is allowed and the petitioner is ordered to be released on



bail subject to his furnishing personal as well as surety bonds to the satisfaction of the learned Chief Judicial Magistrate/trial Court/Duty Magistrate concerned.

8. It is, however, clarified that the observations made above shall not be construed as an expression of opinion of this Court on the merits of the case and shall not influence the outcome of the trial in any manner.

9. Since the main petition has been allowed, pending application, if any, is rendered infructuous.

(MANISHA BATRA)
JUDGE

10.09.2026
Amit Sharma

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