

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

CRM-M No.38082 of 2026

Gourav Kumar... Petitioner

Versus

State of Haryana... Respondent

1.	The date when the judgment is reserved	01.09.2026
2.	The date when the judgment is pronounced	02.09.2026
3.	The date when the judgment is uploaded on the website	02.09.2026
4.	Whether only operative part of the judgment is pronounced or whether the full judgment is pronounced	Full
5.	The delay, if any, of the pronouncement of full judgment, and reasons thereof	Not applicable

CORAM: HON'BLE MRS. JUSTICE MANISHA BATRA

Present: Mr. Krishan Singh, Advocate,
for the petitioner.

Mr. Neeraj Poswal, AAG, Haryana,
for the respondent-State.

Mr. Akash Manocha, Advocate,
for the complainant.

MANISHA BATRA, J.

1. The instant one is the third petition as filed by the petitioner under Section 483 of the Bharatiya Nagarik Suraksha Sanhita, 2023 (For short “BNSS”) seeking regular bail in case arising out of FIR No.288 dated

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10.06.2020 registered under Sections 302, 458, 460, 201 and 34 of IPC and Section 25 of Arms Act, 1959 at Police Station Mahesh Nagar, District Ambala, Haryana. The first petition as filed by the petitioner bearing CRM-M-25214-2024 had been dismissed as withdrawn vide order dated 19.02.2025. The second petition as filed by the petitioner bearing CRM-M-37086-2025 had been dismissed vide order dated 05.03.2026.

2. It is argued by learned counsel for the petitioner that after dismissal of his second petition as on 05.03.2026, the trial has not progressed much as only 15 prosecution witnesses have been examined so far. Each day spent by him in custody has furnished a fresh reason for grant of bail to him. He has suffered incarceration of more than six years. His prolonged incarceration militates against his right of personal liberty. The trial is still likely to take considerable time to conclude. His further incarceration would not serve any useful purpose. Each day spent by him in custody has provided a ground afresh to seek concession of bail. It is, therefore, argued that the petition is maintainable and he deserves to be extended benefit of bail.

3. Per contra, learned State counsel assisted by learned counsel for the complainant has argued that the allegations against the petitioner are serious in nature. The petitioner was seen in the camera installed at the place of occurrence. The present petition is a successive petition and is not maintainable. The trial will not take much time to conclude as 15 out of 26 witnesses have been examined. It is, therefore, argued that the petition does not deserve to be allowed.

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4. This Court has considered the rival submissions.

5. The petitioner along with the co-accused is alleged to have entered into the house of the victim with intent to commit offence of dacoity. The victim had been assaulted and his belongings were taken away. The victim had died due to the impact of the injuries sustained by him. The allegations make out a case for connecting the petitioner with the commission of subject offences. However, now he has spent a period of more than 06 years and 01 month in custody. It is well settled proposition of law that deprivation of the personal liberty without ensuring speedy trial is not in consonance with the right guaranteed by Article 21 of Constitution of India. Even in cases of serious offences, where some amount of deprivation of personal liberty cannot be avoided, if such period becomes unduly long, the same is against the fairness assured by Article 21 of the Constitution. In ***Javed Gulam Nabi Shaikh vs The State of Maharashtra and another***, 2024 INSC 645, it had been observed by Hon'ble Supreme Court that, howsoever, serious a crime may be, an accused has a right to speedy trial as enshrined under the Constitution of India. Bail is not to be withheld as 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. The Hon'ble

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Supreme Court had further observed that the over-arching postulate of criminal jurisprudence that an accused is presumed to be innocent unless proven guilty, cannot be brushed aside lightly, howsoever stringent the penal law may be and direction was given for release of appellant on bail.

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 is 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. The question of prolonged incarceration and inordinate delay engaged the attention of Hon'ble Supreme Court in another case cited as ***Satender Kumar Antil v. Central Bureau of Investigation*** reported in (2022) 10 SCC 51, wherein while considering the correct approach towards bail, with respect to several enactments, it was observed that the provisions contained in Section 436-A of Criminal Procedure Code which requires inter alia, the accused to be enlarged on bail if the trial is not concluded within specified periods, would apply to Special Acts also in the absence of specific provisions.

8. In view of the discussion as made above with regard to the position of law and applying the same to the peculiar facts and circumstances of the present case, this Court is of the considered opinion that the petitioner has made out a case for release on bail since his incarceration has been

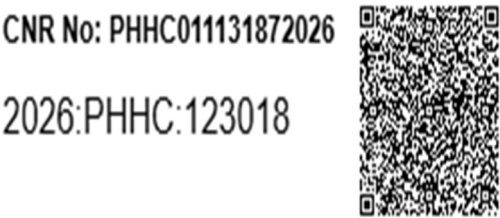
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prolonged and there are no chances of conclusion of trial in near future. More so, there is nothing on record to suggest that the delay in any manner is attributable to the petitioner. His prolonged incarceration in the peculiar circumstance is also to be considered as drastic change in the circumstances. As such, the petition is allowed and the petitioner is ordered to be admitted to bail subject to his furnishing personal as well as surety bonds to the satisfaction of learned trial Court/CJM/Duty Magistrate concerned and on the following conditions:-

- (i) The petitioner shall not directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade him/her from disclosing such facts to the Court or to any Police Officer.
- (ii) He shall appear before the trial Court on each and every date fixed, unless his presence is exempted by the learned trial Court.
- (iii) He shall provide details of his permanent address as well as present address before the learned trial Court at the time of furnishing of bonds and shall not change the same without informing the trial Court.
- (iv) He shall also give copy of his Aadhar Card, PAN Card (if any) and details of his mobile phone number(s) to the learned trial Court at the time of furnishing of bonds and in case, any change in his mobile phone number takes



place, then he shall inform about the same to the learned
trial Court in advance and shall keep his mobile phone
switch on all times.

9. In the eventuality of breach of any of the aforementioned
conditions, the respondent-State shall also be at liberty to move an application
seeking cancellation of the bail.
10. It is made clear that any observation made herein above is only
for the purpose of deciding the present petition and the same shall have no
bearing on the merits of the case.

02.09.2026
manju

(MANISHA BATRA)
JUDGE

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