



IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

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CRM-M-49340-2026 (O&M)
Date of decision : 10.09.2026

RAJESH KUMAR SHARMA

... Petitioner

Versus

STATE OF PUNJAB

...Respondent

CORAM: HON'BLE MRS. JUSTICE MANISHA BATRA

Present: Mr. Arvind Kashyap, Advocate for the petitioner

Ms. Sakshi Bakshi, Assistant Advocate General, Punjab

Mr. Sukhdeep Singh, Advocate for the complainant

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.92 dated 24.06.2023 registered under Section 346 of IPC (Sections 302, 201, 148, 149 and 120B of IPC added later on and Section 346 of IPC deleted later on) at Police Station Sirhind, District Fatehgarh Sahib. His previous petition bearing No.CRM-M-48144-2024 was dismissed by this Court vide order dated 03.12.2024 by making the following observations :-

The petitioner is alleged to be a part of the conspiracy which was hatched by the accused Gurpreet Singh and his wife Khushdeep Kaur to commit murder of the victim Sukhjit Singh to show it a case of accidental death of the accused Gurpreet Singh by



projecting the dead body to be that of Gurpreet Singh with an intention to get money from the Insurance Policies taken in the name of the accused Gurpreet Singh. The allegations against the petitioner are serious in nature. He is also alleged to be one of the persons present along with the co-accused Khushdeep Kaur at the time when the last rites of the body of the victim were performed while showing the same to be the dead body of the co-accused Gurpreet Singh, who was actually alive. There is nothing on record to suggest that there would be any undue delay in conclusion of the trial. Taking into the consideration the nature of the allegations as leveled against the petitioner which prima facie suggest his complicity in hatching a conspiracy to commit the said offences by the co-accused, the quantum of sentence which the conviction may entail and the attendant facts and circumstances but without meaning to make any comments on the merit of the case, I am of the considered opinion that the petition does not deserve to be allowed. Accordingly, the same is dismissed.

2. It is argued by learned counsel for the petitioner that he has suffered prolonged incarceration for a period of over 03 years and 02 months. The chances of conclusion of trial in the near future are still bleak as only 10 out of 59 prosecution witnesses have been examined so far. His further incarceration is not going to serve any fruitful purpose. He has been



implicated in this case on the allegations of part of conspiracy and was not the actual assailant. His prolonged incarceration militates against his fundamental right guaranteed under Article 21 of the Constitution of India. The delay in conclusion of the trial is not attributable to him. He is ready to abide by the terms and conditions to be imposed upon him. Each day spent by him in custody has furnished him a fresh reason to seek concession of bail afresh. It is, therefore, argued that he deserves to be extended benefit of bail.

3. Per contra, learned State counsel assisted by learned counsel for the complainant has argued that taking into consideration the gravity of the allegations as levelled against the petitioner and the fact that this petition being a successive one is not maintainable, the petitioner does not deserve to be given concession of bail and the petition is liable to be dismissed.

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

5. The petitioner is alleged to be a part of the conspiracy which was hatched by the co-accused to commit the murder of the victim and to show it as a case of accidental death of accused Gurpreet Singh and to get money from the Insurance Company. The petitioner has suffered incarceration for a period of more than 03 years, 02 months and 03 days. The trial is still likely to take considerable time to conclude as substantial number of prosecution witnesses are still remained to be examined. So far as question of maintainability of this petition is concerned, undoubtedly it is a successive



petition. The well-settled proposition of law is that if there is some drastic change in the circumstances, the successive petition is maintainable. 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 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 05.07.2023. Only 10 out of 59 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