



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

CRM-M-1408-2025 (O&M)

Reserved on : 27.10.2025

Pronounced on : 31.10.2025

Narender

..... Petitioner

VERSUS

State of Haryana

..... Respondent

CORAM: HON'BLE MR. JUSTICE SURYA PARTAP SINGH

Argued by: Mr. Jai Singh Yadav, Advocate for the petitioner.

Ms. Deepali Verma, Asst. A.G. Haryana.

SURYA PARTAP SINGH, J.

1. For the commission of offence punishable under Sections 302, 323, and 328 of the Indian Penal Code, the FIR No.789 dated 25.08.2022 has been lodged in Police Station Camp, Palwal District Palwal. The petitioner is being prosecuted for the commission of abovementioned offence and he has been arrested. The petitioner is in custody and, therefore, craving for bail. This is second petition for bail, filed by the petitioner, under Section 483 of the Bharatiya Nagarik Suraksha Sanhita, 2023. Earlier petition for bail filed by the petitioner was dismissed by this Court vide order dated 27.09.2024.

2. In nut-shell, the facts emerging from record are that the FIR of this case came into being when on 25.08.2022, an information memo was sent by the doctor of Civil Hospital, regarding admission of Kavita W/o

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Narender. Thereupon, HC Pawan Kumar reached the hospital, and recorded the statement of Kavita, wherein she stated that on 30.08.2022, she had visited her parental home at Village Tappal District Aligarh, and returned to her matrimonial home at about 08:00 pm. According to Kavita, her husband Narender was annoyed due to her late arrival and assaulted her. She further stated that on 24.08.2022 also, she was beaten-up by her husband, and that on 25.08.2022, when she was performing her household chores, her husband started abusing her again, beaten her up, and forcibly administered poisonous pills to her, as a result of which she started vomiting and later became unconscious.

3. According to prosecution, during the course of treatment, the above-named Kavita passed away on 26.08.2022, and consequently, the case, which was initially registered for the offence punishable under Section 328 of IPC, was converted into a case under Sections 323, 328, and 302 of IPC.

4. Heard.

5. It has been contended on behalf of the petitioner that the petitioner is innocent, who has been falsely implicated in the present case, merely, on the basis of statement of Kavita, who is no more. According to learned counsel for the petitioner, the statement of Kavita, though being her last statement made prior to her death and indicating the cause thereof, carries low probative value in view of the fact that, despite ample opportunity, her statement was not recorded by a Magistrate.



6. According to learned counsel for the petitioner, even the doctor on duty was not present at the time of recording of statement, and that there is no medical report to show that at the time of recording of statement, the deceased was in fit mental and physical state.

7. In addition to above, it has also been argued by learned counsel for the petitioner that the petitioner has already suffered a lot of incarceration for being in custody for a period of more than 03 years, and that the trial is not likely to be concluded in near future. It has also been argued by learned counsel for the petitioner that the trial is taking place at a very slow pace as out of 16 prosecution witnesses, only 06 have been examined so far. In support of his arguments, the learned counsel for the petitioner has referred to the principles of law laid down by the Division Bench of this Court in the case of '*State of Haryana Vs. Dal Kaur*', *reported in 2008(1) RCR (Criminal) 364*, wherein it has been observed that a dying declaration recorded by an Executive Magistrate does not carry a good probative value, unless there is a justification for not calling a Judicial Magistrate.

8. *Per contra*, the learned State Counsel has argued that the allegations against the petitioner are of killing of his own wife by forcibly administering poisonous substance to her, and that the petitioner is facing charge for the commission of offence punishable under Section 323 IPC also. According to learned State Counsel, there is good progress in the trial, and by any standards, the trial in the present case cannot be stated to be slow or delayed one.

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9. The record has been perused carefully.
10. A perusal of record shows that in the present case, following are the relevant factors which are required to be taken into consideration, before arriving at any decision with regard to present petition for bail: -
- i) that the petitioner has already suffered a long incarceration for being in custody for a period of almost 03 years;
 - ii) that the progress in trial is slow as out of 16 prosecution witnesses, only 06 prosecution witnesses have been examined so far;
 - iii) that the statement of material witnesses, i.e. father of deceased has already been recorded;
 - iv) that the credibility of dying declaration being relied upon by the prosecution is quite low, as the abovesaid dying declaration was recorded by the Head Constable, and there is no explanation why the services of Judicial Magistrate were not availed for recording of dying declaration;
 - v) that another defect in the dying declaration is that the doctor was not made attesting witness of that dying declaration, and there is no report of doctor that during the course of recording of statement the deceased was in a fit state of mind;
 - vi) that nothing is left to be recovered from the possession of petitioner;
 - vii) that the trial is not likely to be concluded in near future;
 - viii) that detention of petitioner in judicial lockup is not likely to serve any purpose; and
 - ix) that there is nothing on record to show that if released on bail, the petitioner may influence the witnesses.



11. With regard to the legal aspect involved in the instant case, it is relevant to mention that the Hon'ble Supreme Court in the case of "***Dataram versus State of Uttar Pradesh and another***", 2018(2) R.C.R. (Criminal) 131, has observed that "*a fundamental postulate of criminal jurisprudence is the presumption of innocence, meaning thereby that a person is believed to be innocent until found guilty. However, there are instances in our criminal law where a reverse onus has been placed on an accused with regard to some specific offences but that is another matter and does not detract from the fundamental postulate in respect of other offences. Yet another important facet of our criminal jurisprudence is that the grant of bail is the general rule and putting a person in jail or in a prison or in a correction home (whichever expression one may wish to use) is an exception. Unfortunately, some of these basic principles appear to have been lost sight of with the result that more and more persons are being incarcerated and for longer periods. This does not do any good to our criminal jurisprudence or to our society. There is no doubt that the grant or denial of bail is entirely the discretion of the judge considering a case but even so, the exercise of judicial discretion has been circumscribed by a large number of decisions rendered by this Court and by every High Court in the country. Yet, occasionally there is a necessity to introspect whether denying bail to an accused person is the right thing to do on the facts and in the circumstances of a case*".

12. The principles laid down by the Hon'ble the Supreme Court of India in the case of '***Satender Kumar Antil Vs. Central Bureau of***



Investigation and Another’, 2022 LiveLaw (SC) 577, are also relevant in this case. In the abovementioned case, it has been observed that “the rate of conviction in criminal cases in India is abysmally low. It appears to us that this factor weighs on the mind of the Court while deciding the bail applications in a negative sense. Courts tend to think that the possibility of a conviction being nearer to rarity, bail applications will have to be decided strictly, contrary to legal principles. We cannot mix up consideration of a bail application, which is not punitive in nature with that of a possible adjudication by way of trial. On the contrary, an ultimate acquittal with continued custody would be a case of grave injustice”.

13. Therefore, to elucidate further, this Court is conscious of the basic and fundamental principle of law that right to speedy trial is a part of reasonable, fair and just procedure enshrined under Article 21 of the Constitution of India. This constitutional right cannot be denied to the accused as mandated by Hon’ble Apex court in “**Balwinder Singh versus State of Punjab and Another**”, SLP (Crl.) No.8523/2024.

14. If the cumulative effect of all the abovementioned factors, involved in the instant case, is taken into consideration, it leads to a conclusion that the petitioner is entitled for the benefit of bail, and that the present petition deserves to be allowed.

15. Accordingly, without commenting anything on the merits of the case, it is hereby held that the present petition deserves to be allowed. Hence, the same is hereby allowed, and the petitioner is hereby ordered to be



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released on bail on his furnishing personal bond and surety bond(s) to the satisfaction of learned trial Court, subject to the following conditions:-

- (i) that 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 to disclose such facts to the Court or to any other authority.
- (ii) that the petitioner shall at the time of execution of bond, furnish the address to the Court concerned and shall notify the change in address to the trial Court, till the final disposal of the case; and
- (iii) that the petitioner shall not leave India without prior permission of the trial Court.

16. In case, the petitioner violates any of the conditions mentioned above, it shall be viewed seriously and the concession of bail granted to him shall be liable to be cancelled and the prosecution shall be at liberty to move an application in this regard.

(SURYA PARTAP SINGH)
JUDGE

OCTOBER 31, 2025

Gaurav Thakur

Whether speaking / reasoned
Whether Reportable

Yes/No
Yes/No