



IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

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CRM-M No.4241 of 2025 (O&M)
Date of decision: 30.01.2025

Yogesh Nahar @ Rinkal
.....Petitioner
Versus
State of Punjab
.....Respondent

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Mr. Nakul Sharma, Advocate
for the petitioner.
Mr. Sandeep Kumar, DAG, Punjab.

HARPREET SINGH BRAR J. (Oral)

1. Prayer in this petition filed under Section 483 of the BNSS, 2023, is for grant of regular bail to the petitioner in FIR No.260 dated 21.06.2024 registered under Sections 307, 34, 302, 148, 149 IPC and Section 25, 27 of Arms Act (Sections 302, 148, 149 IPC added vide Rapat No.18 dated 23.06.2024 and offence under Section 307/34 IPC reduced later) at Police Station City Ferozepur, District Ferozepur.
2. The brief facts of the case are that the FIR (supra) has been registered at the instance of Lalit Passi @ Passi son of Jawala Prashad, with the allegations that on 21.06.2024 at about 07.15 p.m., he along with Karan and Love was present outside Central Jail on Innova car bearing registration No.PB-03BC-0063. They were waiting for release of their friend Ravi, who was confined in Central Jail. In the meanwhile, Nanna armed with pistol, Saleem armed with pistol and Ajay Joshi came

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there on motorcycle being driven by Ajay Joshi. Ajay Joshi raised Lalkara, whereupon Nanna and Saleem fired shots from their pistols towards him, which hit in his abdomen and above his left thigh. After firing shots, the assailants fled away towards Ferozepur Cantt. His friends took him to Anil Baghi Hospital in Innova car. The accused had attacked him due to previous enmity. Initially, FIR (supra) was registered for offence punishable under Sections 307, 34 IPC and 25, 27 of the Arms Act. Subsequently, the complainant Lalit Passi died and offence punishable under Section 302 IPC was added vide DDR No.18 dated 23.06.2024.

3. Learned counsel for the petitioner *inter alia* contends that the alleged incident has taken place on 21.06.2024 and the FIR (supra) was registered initially under Section 307 IPC on the complaint made by the deceased himself who died on 23.06.2024. Learned counsel for the petitioner relies upon the contents of the FIR (Annexure P-1) and submits that the deceased has named three persons in the FIR with specific attribution. The deceased has alleged that Nanna and Saleem had fired at him with intention to kill him with their respective pistols and they came on a motorcycle which was being driven by co-accused Ajay Joshi. Further, the motive for the attack on the complainant/deceased was specifically attributed to Ajay Joshi. During the investigation, the petitioner along with five more persons have been nominated as an accused on the basis of the disclosure statement made by co-accused Rohit alias Nanna. Even as per the best case, even if this

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Court accepts the case set up by the prosecution as gospel truth, the only allegation against the petitioner would be that he was a member of unlawful assembly. The petitioner is not alleged to have participated in the alleged incident in any manner and his presence alone would not make him liable for the offence under Section 302 IPC with the aid of Section 149 IPC and the alleged weapon recovered from the petitioner, according to the prosecution case, is handed over to him by co-accused Sahil.

4. Learned counsel for the petitioner further submits that there are total 22 prosecution witnesses cited in the list of witnesses, out of which, none has been examined till date and the trial is likely to take long time in conclusion.

5. *Per contra*, learned State counsel has custody certificate today in the Court which is taken on record and he opposes the prayer made by learned counsel for the petitioner on the ground that the petitioner was a member of unlawful assembly and he was part of the conspiracy in which the complainant/deceased had died on account of a gunshot injury, however could not controvert the fact that the petitioner is not involved in any other case and out of 22 PWs, none has been examined so far.

6. Having heard learned counsel for the parties and after perusing the record of the case, it transpires that the petitioner is behind the bars from the last 06 months and 20 days. Investigation is complete. The final report under Section 173 Cr.P.C. was presented before the

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concerned Court. Charges were framed and trial of the case has not made much progress. Out of 22 prosecution witnesses, none has been examined so far.

7. A two Judge Bench of Hon'ble Supreme Court in **"Satender Kumar Antil vs. CBI", (2022) 10 SCC 51**, with respect to prevailing conditions of undertrial prisoner in India has observed:

"6. Jails in India are flooded with undertrial prisoners. The statistics placed before us would indicate that more than 2/3rd of the inmates of the prisons constitute undertrial prisoners. Of this category of prisoners, majority may not even be required to be arrested despite registration of a cognizable offence, being charged with offences punishable for seven years or less. They are not only poor and illiterate but also would include women. Thus, there is a culture of offence being inherited by many of them. As observed by this Court, it certainly exhibits the mindset, a vestige of colonial India, on the part of the investigating agency, notwithstanding the fact arrest is a draconian measure resulting in curtailment of liberty, and thus to be used sparingly. In a democracy, there can never be an impression that it is a police State as both are conceptually opposite to each other."

8. Further the culpability, if any, would be determined at the time of trial and as such, no useful purpose will be served by further detention of the petitioner-accused. Keeping the petitioner in further detention without the prospect of the trial being concluded in the near future, would be violative of his rights under Article 21 of the Constitution of India.

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9. In view the discussion above, the present petition is allowed. Accordingly, without commenting upon the merits of the case, the petitioner namely Yogesh Nahar @ Rinkal is ordered to be released on regular bail during pendency of the trial, on his furnishing bail bonds/surety bonds to the satisfaction of Illaqa Magistrate/Trial Court/Duty Magistrate.

10. Nothing observed hereinabove shall be construed to be expression of an opinion by this Court on merits of the case. The learned Court below is directed to proceed with the matter on its own merits, lest it may prejudice the trial.

(HARPREET SINGH BRAR)
JUDGE

30.01.2025
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Whether speaking/reasoned:	Yes/No
Whether reportable:	Yes/No