



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

CRM-M-3755-2025
Date of decision: 18.07.2025

Anil Kumar alias Neelu

....Petitioner

Versus

State of U.T. Chandigarh

...Respondent

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Mr. Jasmeet Singh Ghumman, Advocate
for the petitioner.

Mr. Manish Bansal, P.P., U.T. Chandigarh.

HARPREET SINGH BRAR, J. (ORAL)

This is third petition filed under Section 483 of Bharatiya Nagarik Suraksha Sanhita, 2023 seeking regular bail in case bearing FIR No.222 dated 17.11.2020 under Sections 302/34 of IPC registered at Police Station Sector 34, District Chandigarh. Earlier petitions were dismissed as withdrawn on 23.08.2023 and 14.05.2024.

The present FIR was got registered against unknown persons on the written statement of Inspector Baldev Singh who stated that on 17.11.2020 at about 7.54 am a wireless information was received from the PCR that a dead body of a person was lying near the labour chowk, Sector 44, Chandigarh. Upon this information, the police party reached the spot and it was found that a dead body of a middle aged person was lying at the spot with head injuries. On verification the body was identified to be that of Jaspal working as a plumber at a labour chowk. It appeared that some unknown persons had struck the deceased with sharp edged object with an intention to kill him.



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After the registration of the FIR, further investigation was carried out. On 18.11.2020 one Dharminder @ Ganja met the police party and informed them that on 16.11.2020 at about 6.30-7.30 pm when he went behind the bushes to answer the call of nature, he observed Jaspal, Dinesh, Anil @ Neelu (petitioner) and Parvinder sitting and consuming liquor. Thereafter during further investigation while the police party was present near Burail chowk one Jagwinder Singh Malik approached them with three persons and stated that on 18.11.2020 at about 1.50 pm he was returning from the Gaushala when those three persons approached him and confessed their guilt. On being asked they disclosed their names as Dinesh, Parvinder and Anil Kumar @ Neelu (petitioner). They admitted that they had killed deceased and requested to produce them before the Police. Accordingly, all the three were arrested. They got recorded their disclosure statements.

Pursuant to the investigation the report under Section 173(2) Cr.P.C. was presented.

Learned counsel for the petitioner *inter alia* contends that there is no direct evidence to indicate the complicity of the petitioner in the alleged incident. The case of the prosecution is entirely based on the circumstantial evidence. The only evidence against the petitioner and his co-accused is the alleged extra-judicial confession made in the presence of Jagwinder Singh Malik and last seen evidence of Dharminder @ Ganja. The extra-judicial confession and the last seen evidence, by their inherent nature, are very weak piece of evidence. He further submits that similarly situated co-accused, namely, Dinesh Kumar has been granted the concession of regular bail by this Court vide order dated 18.05.2023 passed in CRM-M-24378-2023 titled as



'Dinesh Kumar Vs. U.T. Chandigarh' (Annexure P-3) and the petitioner has suffered the incarceration of more than 04 years and 07 months. Further, out of 27 prosecution witnesses, only 08 have been examined and 04 have given up, as such, till date trial of the case has not even reached half way mark.

The learned State counsel has filed custody certificate in the Court today which is taken on record and per contra, opposes the grant of regular bail to the petitioner on the ground that the case of the petitioner is not at par with the case of co-accused-Dinesh Kumar as the clothes of the petitioner were found to have been smeared with the blood of the deceased. Further, the petitioner is involved in two more cases. However, he could not controvert the fact that the petitioner has undergone actual custody of 04 years, 07 months and 28 days and till date, out of 27, only 08 prosecution witnesses have been examined.

A two Judge Bench of Hon'ble Supreme Court in '**Satender Kumar Antil v. 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.”

Having heard learned counsel for the parties and after perusing the record of the case, it transpires that the petitioner is behind the bars since 21.11.2020. Investigation is complete. The final report under Section 173 Cr.P.C. was presented before the concerned Court and trial of the case has not made much progress as only 08 out of 27 prosecution witnesses have been examined so far and 04 have given up. The culpability, if any, would be determined at the time of trial. No useful purpose shall be served by further detention of the accused/petitioner.

The foundational concept of the criminal jurisprudence is to ensure speedy trial. The Hon'ble Supreme Court has repeatedly reiterated that right to speedy trial is enshrined in Article 21 of the Constitution of India. Speedy trial would cover investigation, enquiry, trial, appeal, revision and retrial etc. i.e. everything starting with the accusation against the accused and expiring with the final verdict of the last Court.

It has further been held in law that if a person is deprived of his liberty under a procedure which is not reasonable, fair, or just, such deprivation would be violative of his fundamental right under Article 21 of the Constitution of India. The procedure so prescribed must ensure speedy trial for determination of the guilt of such person. Some amount of denial of personal liberty cannot be avoided, but if the period of deprivation pending trial becomes



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excessively long, the fairness guaranteed by Article 21 of the Constitution of India would come into play.

In this regard, reference is being made to the law laid down by the Hon'ble Supreme Court in the context of right to speedy trial under Article 21 of the Constitution of India on the following decision:- **Akhtari Bi Vs. State of M.P.**, (2001) 4 SCC 355, **Surinder Singh Alias Shingara Singh vs. State of Punjab**, (2005) SCC (CrI) 1674, **P. Ramachandra Rao vs. State of Karnataka**, (2002) 4 SCC 578, **Babu Singh and others vs. State of U.P.**, (1978) 1 SCC 579, **Takht Singh and others vs. State of M.P.**, (2001) 10 SCC 463; **Special Leave to Appeal (CrI) No.2356 of 2010, Kushal Singh vs. State of U.P. (2JJ.)** and **Fazal vs. State of Uttar Pradesh**, (2012) 5 SCC 752.

Keeping in view the law laid down by the Hon'ble Supreme Court of India in '**Prabhakar Tewari Vs. State of U.P. and another**' 2020 (1) R.C.R. (Criminal 831) and '**Maulana Mohd. Amir Rashadi Vs. State of U.P. and Another**', 2012 (2) SCC 382, the involvement of the petitioner in other cases would not be a ground to refuse grant of concession of regular bail.

Ergo, I am inclined to allow the prayer of the petitioner. Accordingly, the present petition is allowed. The petitioner-Anil Kumar @ Neelu, is ordered to be released on regular bail during trial on his furnishing bail bonds/surety bonds to the satisfaction of the concerned Illaqa Magistrate/Trial Court/Duty Magistrate.

The present petition seeking regular bail to the petitioner is allowed solely on the ground of long custody already undergone by him and

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without commenting on the merits of the case lest it may prejudice the outcome of the case pending before the trial Court.

Nothing observed hereinabove shall be construed as expression of opinion of this Court on merits of the case and the trial Court shall proceed without being prejudiced by observations of this Court.

(HARPREET SINGH BRAR)
JUDGE

18.07.2025*Neha*

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