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IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

CRM-M-4486-2025 (O&M)

Jitender @ Kala ... Petitioner

Vs.

State of Haryana ... Respondent

1.	The date when the judgment is reserved	10.11.2025
2.	The date when the judgment is pronounced	29.11.2025
3.	The date when the judgment is uploaded on the website	29.11.2025
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. Rakesh Nehra, Sr. Advocate with
Mr. Sahil Nehra, Advocate for the petitioner.

Mr. Apoorv Garg, Additional Advocate General,Haryana.

Mr. Sartaj Singh Narula, Sr. Advocate with
Mr. Jaskaran Singh, Advocate,
Mr. G.S. Dhillon, Advocate,
Mr. A.S. Sandhu, Advocate and
Ms. Gurpreet Kaur, Advocate for the complainant.

...

Manisha Batra, J. (Oral).

1. This petition has been filed by the petitioner under Section 483 of the Bharatiya Nagarik Suraksha Sanhita, 2023 (for short ‘BNSS’) seeking grant

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of regular bail in case bearing FIR No.78 dated 16.12.2020, registered under Sections 148, 149, 302, 307, 323 IPC and Sections 25 and 27 of the Arms Act (offences under Sections 201, 324, 325 IPC and Section 30 of the Arms Act were added later on), at Police Station Munak, District Karnal.

2. The adumbrated facts as emanating from the record are that on 16.12.2020, on receipt of a telephonic information regarding apprehension of some altercation to take place between the members of Kisna Pana of village Gagsina and of members of rival party over some land dispute, a police party headed by SI Kuldeep Singh reached at village Gagsina–Kapro road, where a huge crowd of people was found to be present. On reaching there, dead bodies of two persons, namely, Dilbagh and Parveen were found lying at the spot. Complainant – Virender Singh, who was present there, submitted a written complaint that some land belonging to members of Kisna Pana was abutting the road proceeding from village Gagsina to Kapro and accused Yudhvair, Jasbir, Randhul, Ram Mehar, Dilbagh and Kuldeep had taken possession of the said land, in an illegal manner. On the same day, some respectable members of Kisna Pana including the victims, had reached at the disputed land and were getting the foundation dug through some JCB machine for raising construction of a wall, when the accused persons including the present petitioner accompanied by several other persons reached there. They were armed with weapons and they opened an assault upon the members of the complainant party with their respective weapons after making exhortations. The shots raised with firearms had injured Parveen, Balraj and Dilbagh, who had died at the spot. Other members of their party had also sustained several injuries. The dead

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body of Balraj had already been sent to CHC, Gharonda. After registration of FIR, investigation proceedings were initiated.

3. As per the further allegations, post mortem examination of the dead bodies of the victims, was conducted. During the course of investigation, statements of injured and other witnesses under Section 161 Cr.P.C. were recorded. The petitioner was arrested on 05.01.2021. He moved an application for grant of bail, which was dismissed.

4. It is argued by learned counsel for the petitioner that he has been falsely implicated in this case. Out of 40 persons named as accused in the FIR, 21 had been found to be innocent. The victims had died due to sustaining firearm injuries. No injury on their person has been attributed to him. No recovery has been effected from him. He had allegedly made exhortations to teach a lesson for digging the foundation and was carrying gun in his hands but there has been no specific attribution. Recovery of his own motorbike and cell phone is alleged to have been effected from him. The complainant Virender Singh while appearing as PW6 has not stated about presence the petitioner and named only six of the accused. He was not the aggressor rather the complainant party was the aggressor. He has not misused the concession of interim bail granted to him on 03.02.2025 by this Court. The trial will take indefinite time to conclude as only 08 out of 76 witnesses have been examined so far. He has clean antecedents. No purpose would be served by detaining him in custody. With these broad submissions, it is urged that the petition deserves to be allowed.

5. Per contra, learned State counsel assisted by learned senior

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counsel for the complainant has vehemently argued that the petitioner was named in the FIR. He was a member of an unlawful assembly and was active participant in the occurrence. He is vicariously liable for the acts with the co-accused. Three persons had succumbed to the injuries sustained by them in the incident and there were as many as 13 injured. The material injured witnesses are yet to be examined and simply because of the fact that the complainant has not deposed about the presence of the petitioner, no reason is made out for extending benefit of bail to him as another witness PW7 Dhan Singh has deposed about the involvement and participation of the petitioner in the crime. It is, therefore, urged that the petition does not deserve to be allowed.

6. This Court has heard the rival submissions made by learned counsel for the parties at a considerable length.

7. The petitioner is alleged to have formed membership of an unlawful assembly with the co-accused and in prosecution of common object thereof, injuries were inflicted on the members of the complainant party. These injuries proved fatal for the three victims namely, Parveen, Balraj and Dilbagh, who had succumbed to the same. Several other persons were injured in the same incident. No injury by the members of the party of the petitioner is shown to have been sustained. The allegations prima facie reveal the presence of the petitioner at the spot with weapon and his participation in the occurrence. He has been linked to the acts attributed with the aid of Section 149 IPC, which has the following ingredients;

1. There must be an unlawful assembly;
2. Commission of an offence may be by any

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member of the unlawful assembly; and

3. Such offence must have been committed in prosecution of the common object of the assembly, or must be such as the members of the assembly knew to be likely to be committed.

8. From a perusal of the above ingredients, it is apparent that even mere presence in the unlawful assembly but with an active mind to achieve the common object, makes a person vicariously liable for the acts of the unlawful assembly. Under Section 149 of IPC, the liability of the other members, for the offence committed during the continuance of the occurrence rests upon the fact whether the other members knew beforehand that the offence actually committed was likely to be committed in prosecution of the common object or not. Such knowledge can reasonably be collected from the nature of the assembly, the weapon used, the behaviour of the participants at or before the scene of action.

9. In the instant case, the petitioner along with the co-accused by forming membership of an unlawful assembly is alleged to have gone to the house of Ram Mehar, where the members of other party were digging foundation. A fight had taken place between them. The petitioner is shown to have joined the co-accused and opened an attack upon the members of kisna pana. The allegations prima facie show his clear involvement/participation in the occurrence while having knowledge that the such offences were likely to be committed in prosecution of common object.

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The allegations against the petitioner are serious in nature as he along with co-accused stands accused of a heinous crime punishable with capital punishment or life imprisonment. While length of incarceration is a factor that weighs with the Court in considering bail, it cannot overshadow the seriousness of the accusation of murder under Section 302 IPC. The material witnesses are yet to be examined. Reference in this context can be had to the observations made in *Parmod Kumar Saxena Vs. UOI, 2008(63) ACC (SC)*, *Chenna Boyanna Krishna Yadav Vs. State of Maharashtra, (2007) 1 SCC, 242* and *State through CBI Vs. Amaramani Tripathi, 2005(4) RCR (Criminal) 280(SC)*. It is well-settled proposition of law that grant of bail is a discretionary relief to be granted or denied based on specific facts and circumstance of each case and there cannot be any exhaustive parameters set out for considering the application for grant of bail. The factors such as nature of accusations, severity of punishment if the accusations entail a conviction and nature of evidence in support of accusations are to be seen. That apart, reasonable apprehension of tampering with evidence or threatening the material witnesses is also to be weighed. Frivolity of prosecution should always be considered, and it is only the element of genuineness that has to be considered in the matter of grant of bail.

10. In light of the foregoing legal principles and other circumstances as discussed above, this Court finding no compelling ground to allow this petition. Accordingly, the petition is dismissed.

11. The petitioner, who is on interim bail in pursuance of order

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dated 03.02.2025, is directed to surrender within a period of one week from today before the learned trial Court, failing which, the learned trial Court shall be at liberty to initiate proper proceedings for securing his presence in the Court.

12. It is clarified that any observation made in this order is only for deciding this petition and shall not influence the outcome of the trial and also not be taken as an expression of opinion on merits.

13 Since the main petition has been dismissed, pending application, if any, is rendered infructuous.

29.11.2025
harjeet

(MANISHA BATRA)
JUDGE

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