

2025:PHHC:122577



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

CRM-M-6600-2025
Date of Decision:08.09.2025

Ashok Kumar alias Gabru

...Petitioner

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MS. JUSTICE AARADHNA SAWHNEY

Present: Mr. Vikram Singh Brar, Advocate and
Ms. Arushi Lamba, Advocate and
Mr. Vishavjeet S. Beniwal, Advocate
for the petitioner.

Mr. Gautam Thapar, Sr. DAG, Punjab.

AARADHNA SAWHNEY, J. (ORAL)

1. Petitioner, an accused in case FIR No.62 dated 24.04.2023 registered against him, under Sections 302 and 34 of IPC (Sections 148 and 149 IPC added later on and deleted Section 34 of IPC), at Police Station Division No.4, Patiala, District Patiala, has filed the first petition for grant of bail under Section 483 of BNSS.

2. Relevant facts as emerging from documents on record be noticed herein below:-

Sachin, son of Satish Kumar, residing in a tenanted house bearing No.178, Gali No.06, Old Bishan Nagar, Police Station Lahori Gate, Patiala, District Patiala, set the criminal law in motion by filing a complaint pointing therein that they are three brothers and one sister. His eldest brother is Aman, younger to him is their sister Naina, he is younger to her and youngest of all is Nakul, aged about 17-18 years, who usually stays at home. On the previous day,

i.e. 23.04.2023, his brother Nakul and friend Anil Kumar @ Chottu son of Durga Prashad, resident of House No.34, Shaheed Bhagat Singh Colony, Patiala, aged about 21 years, were sitting at home, eating and drinking. At about 12:00 (night), his brother Nakul (since deceased) along with his friend Anil Kumar (since deceased) went towards Railway Station, Patiala for taking cigarettes on their motorcycle. At about 05:05 a.m., he received a call from the house of friend of his brother that Anil Kumar and Nakul had a quarrel near Corner Hotel, Patiala and that both are lying in pool of blood. Immediately thereafter, he along with his father Satish Kumar reached Corner Hotel, opposite bus stand, where lot of people had gathered, some of whom disclosed that the boys had died at the spot during quarrel, as also that the dead bodies had been taken to Rajindra Hospital, Patiala. Without losing any time, he along with father reached Rajindra Hospital and identified the dead bodies of Nakul and Anil Kumar, lying in the mortuary. Primarily with this backdrop, the brother of the deceased requested the police authorities to catch hold of unknown persons, who had committed this ghastly act, as also to initiate proceedings against them. On the basis of the aforesaid complaint dated 24.04.2023, a formal case vide FIR No.62 dated 24.04.2023 was registered under Sections 302 and 34 of IPC. It is further the case of the prosecution that 02 days thereafter, i.e. 26.04.2023, complainant Sachin suffered a supplementary statement pointing therein that he had made inquiries at his own level, after that he came to know that following persons were involved in the murder of his brother and their friend Anil Kumar:-

- (i). Yogesh Negi @ Honey son of Jagdish Chand Negi, resident of quarter No.11, K.V. Grid Colony, Patiala.*
- (ii). Jatin Kumar son of Uttam Kumar, resident of House No.5511, Urban Estate, Phase-2, Patiala,*
- (iii). Chhotta Rahul, resident of Tafsalpura Patiala.*
- (iv). Harshdeep Singh son of Binder Singh, resident of DMW Phatak No.16, Rasulpur Saida, Patiala.*
- (v). Ashwani Kumar @ Kail son of Lakhmi Chand, resident of*

House No.291, Gali No.4, Bharat Nagar, Patiala.

(vi). **Ashok Kumar @ Gabru (petitioner)** son of Inderjit Kumar, resident of House No.5540, Lal Quarter, Phase-2, Urban Estate, Patiala.

Complainant also disclosed that on an earlier occasion as well, altercation had occurred between them and the aforesaid mentioned persons, who are well known to him and can recognize them all if produced before him. Towards the end, he further pointed out that he is certain that the aforesaid persons are involved in the tragic death of his younger brother Nakul and their friend Anil Kumar.

3. It is also the case of the prosecution that on the basis of the supplementary statement of the complainant Sachin, Yogesh Negi @ Honey was arrested. During interrogation, co-accused Yogesh Negi disclosed the manner in which the incident was committed and also pointed out that the **present petitioner namely Ashok Kumar @ Gabru** had caught hold of Nakul, when he (Yogesh Negi) gave repeated blow with *Kirch* handle to Nakul. Thereafter, Harshdeep also inflicted *Daang* blow to Nakul, who fell down. Co-accused Ashwani Kumar @ Kali and Jatin Kumar also had caught hold of Anil Kumar, when Rahul gave *Kirch* blow to Anil. With a view to save his life, Anil Kumar ran towards railway station but fell down after going a little ahead. Sensing trouble, they all sped away from the site.

Based on the aforesaid statement of the co-accused Yogesh, present petitioner namely Ashok Kumar @ Gabru was arrested on 01.05.2023 and moved an application for grant of bail, which was dismissed by the Ld. Additional Sessions Judge, Patiala, in terms of the order dated 21.10.2024. Aggrieved of the same, the present petition has been filed.

4. Learned counsel for the petitioner submits that the petitioner has been falsely implicated in the present case. Initially on 24.04.2023, the FIR was lodged against unknown persons. Two days thereafter i.e. 26.04.2023,

brother of the deceased suffered supplementary statement mentioning therein that he had inquired into the matter and had found out that present petitioner along with the others named in the supplementary statement were responsible for death of his brother Nakul and their friend Anil Kumar. This intervening period of 02 days was misused by the complainant party to concoct facts and to falsely implicate the present petitioner and others. Continuing further, learned counsel submits that there was no eye-witness to the present incident, no extra judicial confession had been made by any of accused, neither any specific motive was attributed to them so as to kill both the boys namely Nakul and Anil Kumar. Thus, the false implication of all accused including petitioner is evident. To support his contentions, he places reliance upon ***Jagwinder Singh @ Mangu Vs. State of Punjab (Punjab and Haryana): Law Finder Doc Id#1924168***.

Learned counsel has also drawn attention of the Court to the orders dated 23.08.2024 and 27.09.2024 passed by the co-ordinate Bench of this Court in CRM-M-39865-2024 and CRM-M-47627-2024, respectively, vide which similarly situated accused have been granted the concession of bail. While summing up his arguments, learned counsel contends that petitioner, who has been in custody since 01.05.2023 deserves a lenient view to be taken in his favour, more so when complainant and two others witnesses have already been examined, but still about 18 witnesses are left to be examined and thus, completion of trial is likely to take some time. Learned counsel submits that if extended concession of bail, petitioner undertakes to abide by all the conditions so imposed, to attend the Court proceedings regularly, not to overawe complainant and other witnesses etc. Based on these submissions, it has been prayed that petition be allowed.

5. *Per contra*, learned State counsel has opposed the request for

grant of bail. During submissions, however, when a query was put forth to learned State counsel, he fairly admits that case is based on the circumstantial evidence, as also that three prosecution witnesses including complainant have been examined. Nonetheless, he submits that in view of the seriousness and gravity of offence, the petition for grant of bail deserves dismissal.

6. Both the counsels have been heard and documents on record have been perused.

7. Facts leading to lodging of the FIR have already been noticed in para 2 of the judgment. It is admitted case of the prosecution that the name of the petitioner surfaced in supplementary statement of the complainant recorded two days after the incident. The motive alleged in the said statement was quite vague. Moreover, the incident was not captured in the CCTV cameras installed in the nearby vicinity where the incident occurred. However, keeping in view the fact that accused similarly situated as present petitioner have been granted the concession of bail, as also that complainant has been examined and further completion of trial would take long time, lenient view is taken in favour of the petitioner, who has been in custody since 01.05.2023, by extending him the concession of bail subject to his furnishing bail/surety bonds to the satisfaction of trial Court/Duty Magistrate concerned. The petitioner shall abide by the following conditions:-

- (i) The petitioner will not tamper with the evidence during the trial.*
- (ii) The petitioner will not pressurize/ intimidate the prosecution witnesses.*
- (iii) The petitioner will appear before the trial Court on each and every date fixed, unless is exempted by a specific order of Court.*
- (iv) The petitioner shall not commit an offence similar to the offence of which, he is an accused, or for commission of which he is suspected of.*
- (v) The petitioner shall not directly or indirectly coerce, induce,*

threaten or promise to any person acquainted with the facts of the case so as to dissuade him/her from disclosing such facts to the Court or to any police officer or tamper with the evidence in any manner.

(vi) The petitioner shall not in any manner misuse his liberty.

(vii) The petitioner shall furnish his address and mobile number to the Trial Court forthwith and shall not change the same till the conclusion of the trial and in case for any reason, the petitioner seeks to change any of the aforesaid, the same shall be done only with prior intimation to the learned Trial Court, stating the reason for the same.

(viii) The petitioner shall not leave the country without prior permission of the trial Court.

(ix) The trial Court/Duty Magistrate may impose any other condition, as deemed appropriate while releasing the petitioner.

8. Accordingly, the present petition is allowed and it is made abundantly clear that in case there is any breach of the aforesaid conditions, the State shall be at liberty to seek cancellation of bail as granted to the petitioner by this order.

9. In view of the above, it is clarified that the observations made herein are limited for the purpose of present proceedings and would not be construed as an opinion on the merits of the case and the trial would proceed independently of the aforesaid observations.

08.09.2025

Parveen kumar

**(AARADHNA SAWHNEY)
JUDGE**

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