



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

235

CRM-M-13774-2025 (O&M)
Date of decision: 22.04.2025

Jaibir @ Tinku @ Jaibir Poonia

....Petitioner

Versus

State of Haryana

....Respondent

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Ms. Anjali Khosla, Advocate
for the petitioner.

Mr. Vikas Bhardwaj, AAG, Haryana.

HARPREET SINGH BRAR J. (Oral)

1. Prayer in this 2nd petition filed under Section 483 of the BNSS, 2023, is for grant of regular bail to the petitioner in FIR No.0073 dated 18.02.2020 registered under Sections 201, 212, 302, 364, 412, 120-B, 34 IPC and Section 25 of the Arms Act, 1959 at Police Station Sadar Hisar, District Hisar. The 1st petition filed by the petitioner seeking regular bail was dismissed on 26.02.2024 and this 2nd petition has been filed on account of the fact that the petitioner has suffered the incarceration of more than 05 years.

2. The brief facts of the present case are that on 18.02.2020 complainant Monika wife of Sunil resident of village Mehanda moved written complaint before the police, alleging therein that her husband Sunil had a licensed pistol and he got issued the arms licence as he wants to do the job as a Security Guard. She further alleged that the



maternal house of accused Sumit and Jaibir (petitioner herein) is situated at village Mehanda and both the aforesaid accused used to visit the said village. Two months back, said Sumit and Jaibir met with her husband Sunil and offered a job of Security Guard to him at a monthly salary of ₹15,000/- and thereafter, her husband started working for Sumit and Jaibir as Security Gaurd and used to return home after 4-5 days. On 13.02.2020 her husband had come in the home and on 14.02.2020 he had gone to Satrod and thereafter, his phone was coming switched-off, upon which her relatives had gone to the house of Sumit in village Mehanda to enquire about her husband Sunil and there Rani mother of Sumit and wives of Jaibir and Sumit informed them that Jaibir, Sumit, Manoj and Amit Gautam have committed the murder of Sunil and thrown his dead body in the canal with an intention to destroy the evidence. On the basis of said complaint, case was registered. The dead body of deceased Sunil was recovered from Devsar Feeder and proceedings under section 174 Cr.P.C. were conducted. After postmortem examination, dead body of deceased was handed over to his relatives for cremation. On 20.02.2020 statement of Manju sister of deceased was recorded and thereafter Sections 364 and 120-B IPC were added. On 20.02.2020 juvenile in conflict Ajay Gautam was joined in the investigation and taken in protective custody and produced before Juvenile Justice Board, Hisar. On 28.02.2020 co-accused Amit was arrested and during interrogation he suffered disclosure statement regarding the present case. On 01.03.2020 the petitioner - Jaibir and co-



accused Sumit were arrested and their separate disclosure statements were recorded. The petitioner - Jaibir in pursuance of disclosure statement got recovered one pistol of 32 bore and three live cartridges which were taken into police possession. On 02.03.2023 juvenile in conflict Manoj was joined in the investigation and taken in protective custody and produced before Juvenile Justice Board, Hisar. During further investigation co-accused Ajit was arrested and Car No. HR07-Z-1616 used in the commission of crime was recovered.

3. Learned counsel for the petitioner refers to the order dated 06.02.2025 passed by learned Additional Sessions Judge, Hisar and submits that 02 of the co-accused of the petitioner, who were juvenile are also facing the trial, in which one application under Section 319 Cr.P.C., has been filed and the learned trial Court has adjourned the case with other case to reach the same at the stage of defence evidence, however, such an approach has caused serious prejudice to the right of the petitioner enshrined under Article 21 of the Constitution of India, which ensure speedy trial. She further submits that 02 of the similarly situated co-accused of the petitioner have already been granted the concession of regular bail by this Court vide orders dated 23.09.2021 and dated 13.02.2023, passed in CRM-M No.11007 of 2021 and CRM-M No.38775 of 2022, respectively. She also contends that the FIR (supra) has been registered on the basis of hearsay and the petitioner has been attributed a role of firing a shot on the deceased, on the basis of the disclosure statement of co-accused Ajay Gautam, which has no



evidentiary value in the eyes of law as the same is hit by Section 25 of the Evidence Act. Apart from the disclosure statement made by co-accused, there is no legally admissible evidence available on record to connect the petitioner with the alleged incident.

4. Learned counsel for the petitioner fairly submits that all the prosecution witnesses have already been examined before the learned trial Court.

5. *Per contra*, learned State counsel has filed 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 along with co-accused Sumit were having a dispute with the deceased Sunil who was demanding the pending salary and both of them forcibly taken the deceased in a car and thereafter, murdered him by using his pistol, which has been duly proved from the FSL report. He further submits that the petitioner is the main accused and he is also involved in one more case i.e. FIR No.60 of 2020 and as such he is not entitled to any relief, however, he could not controvert the fact that the petitioner is in custody from the last 05 years, 01 month and 17 days.

5.1. In rebuttal, learned counsel for the petitioner submits that the petitioner has already been granted the concession of bail in the said FIR by this Court vide order dated 18.08.2023, passed by this Court in CRM-M No.56021 of 2022.

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 05 years, 01 month and 17 days. Investigation is



complete. The final report under Section 173 Cr.P.C. was presented before the concerned Court. Charges were framed and all the prosecution witnesss stood examined.

7. 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.

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

9. 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 (Crl) 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 (Crl) No.2356 of 2010, Kushal Singh Vs. State of U.P. (2JJ.) and Fazal Vs. State of Uttar Pradesh, (2012) 5 SCC 752.

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

11. The present petition seeking regular bail to the petitioner is allowed solely on the ground of long custody already undergone by him and without commenting on the merits of the case, lest it may prejudice the outcome of the case pending before the learned trial Court.

(HARPREET SINGH BRAR)
JUDGE

22.04.2025
yakub

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