



CRM-M-15054-2025

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

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**CRM-M-15054-2025
Decided on :24.07.2025**

Dinesh

. . . Petitioner(s)

Versus

State of Haryana

. . . Respondent(s)

CORAM: HON'BLE MR. JUSTICE SANJAY VASHISTH

Present: Mr. Sushil Jain, Advocate for the petitioner.

Mr. P.K. Jhanda, DAG, Haryana.

SANJAY VASHISTH, J. (Oral)

1. The prayer in this fifth petition under Section 483 of BNSS, is for grant of regular bail in case FIR No.207 dated 15.06.2021, under Sections 323, 307, 506, 34 IPC, and Sections 25/54/59 of Arms Act (Section 34 of IPC and Sections 25 of Arms Act were deleted and Section 27 of Arms Act was added), registered at Police Station Gohana Sadar, District Sonipat.

2. The present FIR came to be registered at the instance of Vishal which read as under:-

“ To the SHO Sahib, Police Station Sadar, Gohana. Sir, It is submitted that I, Vishal s/o Mukhtyar Singh, Caste Jat, am the resident of Village Katwal, P.S. Sadar Gohana, District Sonipat. Yesterday on dated 14.06.2021 in the evening, Dinesh S/o Sat Narayan and Sandeep S/o Sat Narayan, resident of Katwal, Caste Jat, were saying to lift the soil



from out plot and was saying to pour soil in this plot adjoining to our plot. I and my father refused them to do so. Today on 15.06.2021 in the evening at about 5 o'clock, they started lifting soil from out plot with the help of JCB. I restrained them from lifting the soil. After that Dinesh picked up a brick and hit on my head. Regarding this, I told at my home, from my home, I, my father and Ravi, who is son of my uncle ('Tau) Ramesh and my grandfather Balwan, uncle Narender, uncle Virender, brother Jaidev and brother Vikas came on the plot and we told them that despite of our refusal, you are lifting soil from our plot, at that time Dinesh, Sandeep sons of Sat Narayan and Dinesh's mother Parkashi, Dinesh's wife Parvesh were already present at the plot. They started abusing us, in the meantime, Dinesh, who was holding pistol in his hand with an intention to kill us fired upon me, which hit me on my left knee and fired second shot which struck me on my back waist and fired a shot, which hit on the left hip ('Pasu) of Ravi and Sandeep, who was holding 'lath in his hand hit the same on my head and Parkash and Parvesh gave fist and kick blows to my mother and aunty. When we raised alarm 'mar-diya-mar-diya', then my uncle's son Azad and Amit run towards us. On seeing them coming, all of them fled away with their respective weapons, while fleeing they are saying that today you have been set free, in future on finding opportunity, you will be done to death. After this, Azad and Anil arranged vehicle and brought me and Ravi to PGI Khanpur for treatment, doctor got us admitted. Legal action be initiated against all of them. I have submitted written 1 application to you at PGI Khanpur. SD/Vishal."

3. The learned Counsel for the petitioner contends that the petitioner has been falsely implicated in the present case. In fact it was the complainant side which was the aggressor party and had started giving beatings to the family members of the petitioner and it was in self defence that the petitioner had to fire, which injured the complainant and also one Ravi.

Despite making a complaint to the investigating agency, no action was taken because of which the petitioner had to file a complaint under Section 156(3) Cr.PC before the concerned Illaqa Magistrate



leading to the registration of the FIR against the present complaint party, bearing FIR No.13 dated 06.01.2022 under Sections 120-B, 148, 149, 323, 307, 427, 452, 506 IPC and Sections 27/54/59 of Arms Act P.S. Ghana Sadar, District Sonipat.

However, learned counsel for the petitioner contends that after investigation of the case, the police have submitted cancellation in the FIR registered at the instance of the petitioner.

4. Learned counsel further argues that the bail petition was dismissed way back on 03.05.2024, i.e., about one year, two months, and twenty-one days ago, yet the prosecution has not completed the examination of its evidence till date. As of now, the petitioner has completed more than three years and nine months of incarceration. Even two prosecution witnesses, namely the Director of the Forensic Science Laboratory and Inspector Ravinder, are yet to be examined.

Additionally, counsel submits that none of the injuries allegedly caused by the petitioner with a firearm have been found to be life-threatening. The petitioner, who is 41 years old, has no prior criminal record or history of similar activity. The culpability of the petitioner is yet to be finalized, but the process has been delayed by the prosecution without any fault on the part of the petitioner.

It is further submitted that the prolonged delay in concluding the trial despite the petitioner's lengthy incarceration period can be regarded as a change in circumstances warranting consideration of the bail plea. Counsel relies upon the judgments of this Court (Punjab and



Haryana High Court) in *Sher Singh vs. State of Haryana*, 2024 (3) RCR (Criminal) 539, and *Rafiq Khan vs. State of Haryana and another*, 2024 (2) RCR (Criminal) 819. Therefore, prays for grant of regular bail.

5. On the other hand, learned State counsel submits that since the petitioner's earlier bail pleas have been dismissed, the present bail petition is not maintainable and is therefore liable to be dismissed

6. The first bail petition filed by the petitioner was disposed of as withdrawn vide order dated 07.04.2022 passed in CRM-M-9813-2022 (P-7). Again, on 15.11.2023, the second petition for bail, i.e., CRM-M-24823-2023, was ordered to be dismissed as withdrawn at this stage. For the third time, i.e., on 15.02.2024, bail petition CRM-M-2529-2024 was again disposed of as dismissed as withdrawn. The fourth bail petition, i.e., CRM-M-20624-2024 filed by the petitioner, was dismissed by taking note of the factual aspects and the role assigned to the petitioner by the co-ordinate Bench vide its order dated 03.05.2024, observing as under:

"5. I have heard the learned counsel for the parties.

6. A perusal of the FIR would reveal that the petitioner fired multiple pistol shots on the complainant and the injured. In fact the first altercation took place on 14.06.2021 and then once again on 15.06.2021 the instant occurrence took place in which pistol shots had been fired. The argument of the petitioner that only simple injuries had been caused is of little significance given the fact that a firearm was used in the occurrence and therefore, the intention to cause murder is writ large. Further this is the 4th bail application of the petitioner, the last one having been withdrawn on 15.02.2024. Absolutely, no change in circumstances have been pointed out by the counsel for the petitioner during the course of arguments.

7. In view of the above, I find no merit in the present petition and the same stands dismissed.

8. Further for repeatedly filing bail applications, without any change in circumstances the petitioner is directed to deposit a sum of Rs.25,000/- with the Punjab and Haryana



High Court Bar Association Account No.65035682434 State Bank of India High Court Branch, IFSC Code SBIN0050306.”

Learned counsel for the petitioner, while arguing the present petition, contends that the cost amount of Rs. 25,000/- payable to the Punjab and Haryana High Court Bar Association could not be deposited because the petitioner is in jail, and except for his elderly widowed mother and two minor children, there is no one in the family to make the necessary arrangements for payment of the cost amount.

7. Having heard learned counsel for the respective parties and perused the record available before this Court, it is observed that in the judgment of ***Sher Singh*** (supra), relied upon by the petitioner, the case involved bail applications under the provisions of the NDPS Act, which had been dismissed more than once. This Court noticed the observations made by the Hon’ble Apex Court in ‘***Parvinder Singh vs. State of Punjab***’, 2003 (12) SCC 615, and in ‘***Chitta Biswas alias Subhas vs. The State of West Bengal***’, passed in ***Criminal Appeal No. 245 of 2020*** vide dated 07.02.2020, as well as in case ‘***Gopal Krishan Patra vs. Union of India***’ passed in Criminal Appeal No. 1169-202 vide order dated 05.08.2022. Additionally, the Full Bench judgment of the Rajasthan High Court in ‘***Ganesh Raj vs. State of Rajasthan and others***’, 2005 (3) RCR (Criminal) 30, was also considered.

Relying on these precedents, the Court granted the concession of bail, making observations in paragraphs 12 and 13, which read as under:

“12. In the present case, the petitioner has been in custody since 21.05.2020 (more than 4 years and month) and the trial has



not yet concluded as 3 witnesses are yet to be examined. The investigation is complete and the challan has been presented and nothing further is to be recovered from the petitioner and the petitioner is stated to be not involved in any other case. The first bail application of the petitioner was dismissed on 14.01.2021 and the second bail application of the petitioner was dismissed on 27.05.2022 and after dismissal of the said bail applications on merits, substantial period has further elapsed and the petitioner has remained in incarceration and in view of the law laid down in the above said judgments, the petitioner is, thus, entitled to file the present bail application. Keeping the petitioner in further incarceration would be violative of the right of the petitioner enshrined under Article 21 of the Constitution of India.

13. *Keeping in view the abovesaid facts and circumstances as also the law laid down in the abovementioned judgments, this Court deems it appropriate to grant the concession of regular bail to the petitioner. Further, this Court proposes to impose such conditions that would meet the object of Section 37 of the NDPS Act, 1985.”*

Similarly, in **Rafiq Khan’s** case (supra), while granting bail, observations were made in paragraphs 9, 13, and 14, which read as under:

“Analysis (re law)

9. *The paramount issue, in any plea for grant of regular bail, is the liberty of an individual. Indubitably, within our society and jurisprudence, liberty is a cherished foundational principle and has fundamental ascendancy over all other attributes of social order. Even within the framework of Constitution, this principle is made conspicuous, inter alia, in Article 21 of our Constitution that no person shall be deprived of his personal liberty except according to procedure established by law. The Cr.P.C., 1973 is one such procedural law which permits curtailment of liberty of anti-social and anti-national elements. Yet, liberty of an individual, the accused, must not transgress the rights of another*



individual, the victim, in terms of right to dignified everyday life without any imminent fear or threat. Additionally, the rights of the collective of individuals viz. the State/Society at large, also cannot be neglected. Therefore, while countenancing the facts for considering the bail, the rights of the triad of accused, victim and the State (Society at large) ought to be entailed. Ergo, while considering a bail plea, the Court ought to take into account this core concept(s).

9.1 *An analytical perusal of Cr.P.C. explicates that this statute does not contain any provision relatable to maintainability or otherwise of second/successive bail petitions, including one(s) seeking regular bail. Once there is no statutory prohibition provided for in law, a Court is not logically empowered to import into it such prohibitions, especially in case of codified and legislated law. It is trite law that Courts ought not to read a provision in codified law which has not been specifically provided for by the legislature especially when such reading results into deprivation of rights. The bar contained in Section 362 of Cr.P.C. can, by no stretch of legal imagination, be said to be barring the filing of second/successive regular bail petition.*

9.2 *The Hon'ble Supreme Court in case of **Babu Singh** case (supra) has held that rejection of a bail petition does not, by itself, forbid a Court from considering another one, later in point of time. Similar is the ratio decidendi of the judgment of Hon'ble Supreme Court in **Kalyan Chandra Sarkar** (supra). Ergo, it can be safely inferred that the decision of a Court qua regular bail petition is essentially an interlocutory order and hence the postulation of res judicata does not apply to its realm.*

9.3 *The issue that next craves attention is as to what are the factors/parameters for consideration of second/successive regular bail petition(s).*

9.4. *The concordant legal position is that the essential pre-requisite for consideration of second/successive regular petition is the material/substantial change in circumstances and factors of alike nature. Indubitably, the further period of incarceration suffered by the petitioner-accused after rejection/withdrawal of*



first/earlier plea for bail, pace of trial, the witnesses turning hostile or not supporting prosecution case and changed medical condition(s) of accused would be pertinent factor(s). It goes without saying that these factors are only illustrative in nature and cannot by any means be said to be exhaustive.

9.5 *No rigid or universal criterion can possibly be delineated to conclusively govern the exercise of judicial discretion, in determining, as to what would constitute as the above stated substantial change in circumstances. Factual flexibility, one additional or different fact, may cause a sea of difference. There is no gainsaying that each case has its own distinct and unique facts and, hence, exercise of such judicial power is best left to the judicial discretion of a Court, in accordance with the settled norms of our jurisprudence.”*

10.xxx

11.xxx

12.xxx

13. *The first plea by the appellant (herein) for grant of regular bail was dismissed as withdrawn on 08.12.2022, primarily on a technical ground viz. the said petition had been filed under Section 439 of Cr.P.C. whereas the accused (herein) ought to have availed remedy in terms of Section 14-A of Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989. Therefore, the ineluctable conclusion regarding this aspect of the matter is that the said petition was withdrawn on a technical/procedural ground. The second plea for grant of regular bail, filed by way of an appeal, was dismissed as withdrawn on 05.01.2023. The appellant has undergone further incarceration of about 01 year and 03 months since withdrawal of his last plea for bail with the trial not seeming to culminate in near future. There is no gainsaying that the period of custody undergone by bail-applicant is a relevant factor to be considered along with the severity/nature of allegations, as also quantum of punishment which is likely to be entailed, in case conviction is recorded against such bail-applicant. Speedy trial is a right vested in an accused, especially one who is in custody. No*



argument has been raised by learned counsels for the State/complainant counsel which indicates that delay in culmination of trial is attributable to appellant-accused. Nothing tangible has been brought forward to indicate the likelihood of the appellant absconding from the process of justice or interfering with the remaining prosecution evidence.

14. Keeping in view the entirety of facts and circumstances of the case, further detention of the appellant as an undertrial is not warranted in the facts and circumstances of the case.”

8. Going through the purpose of granting bail by the Courts as having been discussed in the aforementioned judgments and noticing the facts that petitioner is already there inside jail for a period of more than three years and nine months (as confirmed by learned State counsel) and also that petitioner being aged 41 years, never found indulged in criminal activity in his past, I am in agreement to consider even the prayer for bail in the present petition, which infact is the fifth in number.

It is also worth noticing, as contended by the petitioner that the wife of the petitioner has already taken divorce and presently, only his old aged widowed mother aged about 80 years and two minor children are there inside house . Though shots were fired by the petitioner, as alleged by the prosecution, was more than once, but none of the injury is pointed out to be dangerous to life, however, two of the witnesses as indicated above, are yet to be examined and it would be upon learned trial Court to take an independent view regarding the culpability of the petitioner, if any found, therefore present petition is allowed.

This Court finds that the principles laid down in the aforementioned judgments provide sufficient ground for granting bail

Consequently, prayer made in the present petition is allowed. Petitioner is ordered to be released on bail, subject to his furnishing bail/surety bonds to the satisfaction of the learned trial Court/ Chief Judicial Magistrate/Illaq Magistrate/ Duty Magistrate concerned, if not required in any other case.

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9. However, it is clarified that the amount of Rs.25,000/- as directed by this Court in its order dated 03.05.2024 would be complied with by the petitioner within a period of one week after coming out of jail, failing which the concession of bail through present order would not be available to the petitioner.

10. Any of the discussion done and recorded hereabove, shall not be construed as an expression of opinion on the facts of the case. Therefore, trial Court is expected to decide the case by taking an independent view, on the basis of evidence available on record, as expeditiously as possible in accordance with law.

11. It is further made clear that if, in future, the petitioner is found to be directly involved in similar activities, the prosecution would be at liberty to seek cancellation of bail.

12. Petition stands disposed of.

(SANJAY VASHISTH)
JUDGE

24.07.2025*Rashmi**Whether speaking/reasoned:* Yes*Whether Reportable:* Yes