



In the High Court of Punjab and Haryana, at Chandigarh

Criminal Misc. No. M-16925 of 2025

Date of Decision: 30.10.2025

XXXXXX

... Petitioner(s)

Versus

State of Haryana

... Respondent(s)

CORAM: Hon'ble Mr. Justice Surya Partap Singh.

Present: Mr. Pankaj Gautam, Advocate
for the petitioner(s).

Mr. Parveen Kumar Aggarwal, Additional Advocate General,
Haryana, for the respondent.

Surya Partap Singh, J.

1. For the commission of offence punishable under Sections 302, 201 and 34 of the Indian Penal Code, 1860, hereinafter being referred to as “IPC” only, the FIR No. 455 dated 28.09.2023 has been lodged in Police Station Sadar, District Jind, Haryana. This is first petition for bail, filed by the petitioner, under Section 483 of the Bharatiya Nagarik Suraksha Sanhita, 2023, hereinafter being referred to as “BNSS” only.

2. During the course of investigation of above mentioned case, the petitioner was arrested on 02.10.2023. The petitioner is in safe custody since then, and therefore, for the concession of bail he has approached this Court, by virtue of present petition under Section 483 of BNSS.

3. Briefly stating the facts emerging from the record are that the FIR of this case came into being on the statement of Naresh Kumar,

hereinafter being referred to as “complainant” only. He had stated that his cousin, namely Sunil used to stay with him for the last eight/nine years, and that on 27.09.2023, he (complainant) had visited Jind and when he returned home, he found that Sunil was missing. According to complainant, his cousin Sunil had left home for a week after dinner at about 8:30 P.M. and did not return the whole night. It was further stated by the complainant that at about 06:30 A.M. he was informed by the villagers that some unknown person had killed Sunil Kumar by hitting a brick on his head. It is the case of prosecution that on the basis of above mentioned statement, formal FIR of this case was lodged, and the investigation taken up.

4. According to prosecution, during the course of investigation, the petitioner, who was juvenile, was detained in safe custody and since then he is there only.

5. Heard.

6. It has been contended on behalf of petitioner that the petitioner is innocent having no nexus, whatsoever, with the commission of crime, and that he has been falsely implicated in the present case. The learned counsel for the petitioner has argued that the petitioner has been detained in safe house for more than two years and 27 days, and that the enquiry is not likely to be concluded in near future.

7. In addition to above, the learned counsel for the petitioner has also contended that the complainant-Naresh Kumar and other private witness, namely Sanjay Kumar have already been examined, and that none of them has deposed anything about the petitioner. It has also been contended by learned counsel for the petitioner that there is no apprehension

of tampering of evidence by the petitioner and his detention in safe house is not likely to serve any purpose. In view of above, the learned counsel for the petitioner has prayed for extending the benefit of bail to the petitioner.

8. Per contra, the learned State counsel has argued that in the present case, the offence allegedly committed by the petitioner is of heinous nature, i.e. committing murder of a human being, and that the gravity of offence committed by the petitioner does not warrant the concession of bail for him.

9. The record has been perused carefully.

10. A careful perusal of record shows that in the present case, there are several relevant factors which are required to be taken into consideration before arriving at any decision with regard to instant bail petition:-

- i) that in the present case, there is no dispute qua the fact that at the time of commission of offence, the petitioner was a juvenile;
- ii) that the petitioner has already suffered a long incarceration for being detained in safe house for a period of two years and 27 days;
- iii) that nothing is left to be recovered from the possession of petitioner;
- iv) that the material eye witnesses have already been examined in the present case;
- v) that detention of the petitioner in safe house is not likely to serve any purpose; and
- vi) that there is nothing on record to show that if released on

bail, the petitioner is likely to tamper with the evidence or influence the prosecution witnesses.

11. With regard to the legal rights of a person who has been detained, it is relevant to mention here that the Hon'ble Supreme Court in the case of "*Dataram versus State of Uttar Pradesh and another*", 2018(2) *R.C.R. (Criminal) 131*, has observed that "a fundamental postulate of criminal jurisprudence is the presumption of innocence, meaning thereby that a person is believed to be innocent until found guilty. However, there are instances in our criminal law where a reverse onus has been placed on an accused with regard to some specific offences but that is another matter and does not detract from the fundamental postulate in respect of other offences. Yet another important facet of our criminal jurisprudence is that the grant of bail is the general rule and putting a person in jail or in a prison or in a correction home (whichever expression one may wish to use) is an exception. Unfortunately, some of these basic principles appear to have been lost sight of with the result that more and more persons are being incarcerated and for longer periods. This does not do any good to our criminal jurisprudence or to our society. There is no doubt that the grant or denial of bail is entirely the discretion of the judge considering a case but even so, the exercise of judicial discretion has been circumscribed by a large number of decisions rendered by this Court and by every High Court in the country. Yet, occasionally there is a necessity to introspect whether denying bail to an accused person is the right thing to do on the facts and in the circumstances of a case".

12. The principles laid down by the Hon'ble the Supreme Court of India in the case of '*Satender Kumar Antil Vs. Central Bureau of Investi-*

gation and Another', 2022 LiveLaw (SC) 577, are also relevant in this case.

In the above-mentioned case, it has been observed that “the rate of conviction in criminal cases in India is abysmally low. It appears to us that this factor weighs on the mind of the Court while deciding the bail applications in a negative sense. Courts tend to think that the possibility of a conviction being nearer to rarity, bail applications will have to be decided strictly, contrary to legal principles. We cannot mix up consideration of a bail application, which is not punitive in nature with that of a possible adjudication by way of trial. On the contrary, an ultimate acquittal with continued custody would be a case of grave injustice”.

13. Therefore, to elucidate further, this Court is conscious of the basic and fundamental principle of law that right to speedy trial is a part of reasonable, fair and just procedure enshrined under Article 21 of the Constitution of India. This constitutional right cannot be denied to the accused as is the mandate of the Apex court in “*Balwinder Singh versus State of Punjab and Another*”, SLP (Crl.) No.8523/2024.

14. If the cumulative effect of all the above-mentioned factors, involved in the instant case, is taken into consideration, it leads to a conclusion that the petitioner is entitled for the benefit of bail.

15. Accordingly, without commenting anything on the merits of the case, the present petition is hereby allowed. The petitioner is hereby ordered to be released on bail on his furnishing bail bonds and surety to the satisfaction of trial Court, subject to the following conditions:-

- (i) that the petitioner shall not directly or indirectly make any inducement, threat or promise to any person

acquainted with the facts of the case, so as to dissuade him to disclose such facts to the Court or to any other authority;

- (ii) that the petitioner shall at the time of execution of bond, furnish the address to the Investigating Officer/the Court concerned and shall inform any change in his residential address to the Court, till the conclusion of trial; and
- (iii) that the petitioner shall not leave India without prior permission of the trial Court.

16. In case, the petitioner violates any of the conditions mentioned above, it shall be viewed seriously and the concession of bail granted to him shall be liable to be cancelled and the prosecution shall be at liberty to move an application in this regard.

(Surya Partap Singh)
Judge

October 30, 2025
“DK”

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No