

2025:PHHC:091355



235 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-18640-2025
Date of Decision: 23.07.2025

Rishabh Sharma ... Petitioner

Versus

State of Haryana ...Respondent

CORAM: HON'BLE MR. JUSTICE RAJESH BHARDWAJ

Present: Mr. Sahil Chaudhary, Advocate
for the petitioner.

Ms. Diya Sodhi, Sr. DAG, Haryana.

RAJESH BHARDWAJ, J. (ORAL)

1. Petitioner has approached this Court by way of present 2nd petition praying for granting regular bail in case FIR No.161 dated 13.04.2019, under Sections 302, 120-B, 34, 216 IPC, registered at Police Station Baldev Nagar, District Ambala.

2. Succinctly the facts of the case are that the present case was registered on the statement of complainant, namely, Amandeep Singh S/o Jagga Singh. It was alleged that on 12.04.2019, he along with his brother-in-law, namely, Hardeep Singh and friends, namely, Avtar Singh and Sukhdeep Singh went to Ambala in the Car of Hardeep Singh. There, his brother-in-law, Hardeep Singh was talking on phone with someone and at around 9:30 pm in the night, Kamaljeet Singh S/o Mangu along with 7-8 companions who were armed with binda, swords, rod, iron etc. reached at the spot and on reaching, Kamaljeet raised a lalkara to teach a lesson to Avtar Singh for helping Harpreet Singh. On this all persons attacked Avtar Singh with the weapons they were

armed with, Avtar Singh fell down in the fight and complainant, when intervened, also sustained injuries on his head, arm and waist. His brother-in-law, Hardeep Singh tried to intervene in order to rescue them but Kamaljeet Singh etc. had caused injuries to his brother-in-law as well. On raising alarm, the assailants escaped along with their weapons from the scene of occurrence. They were shifted to Government Hospital, Ambala for treatment from where Avtar Singh was referred to Sector-32, Government Hospital, Chandigarh, however, he succumbed to injuries. It was also alleged that in the marriage of Narender Singh, who is brother of Kamaljeet Singh, about 2 ½ years back a fight had taken place between brother of Harpreet Singh, in which Avtar Singh had allegedly helped his brother and hence, there was a motive to kill Avtar Singh. Request was made to take legal action against both the assailants. On registration of FIR, the investigation commenced. During investigation, accused-Kamaljeet Singh was arrested, who made a disclosure on 18.04.2019 to the effect that Rishabh Sharma (petitioner) was also part of the assailant team, hence, he was also arrayed as an accused. He was arrested on 28.04.2019. The petitioner approached the Learned Additional Sessions Judge, Ambala praying for grant of bail, however, finding no merit, the same was declined after hearing both the sides by Learned Additional Sessions Judge, Ambala vide order dated 21.12.2022 (Annexure P-13). Aggrieved by the same, the petitioner earlier approached this Court by way of filing of CRM-M-19373-2023 but the same was dismissed as withdrawn vide order dated 01.03.2024 (Annexure P-14). Hence, the petitioner is before this Court by way of filing of present 2nd petition for grant of bail.

3. Learned counsel for the petitioner has vehemently contended that the petitioner has been falsely implicated in the present case. He submits that the petitioner is neither named in the FIR, however, he has been arrayed as an

accused on the basis of disclosure statement made by co-accused, Kamaljeet Singh. He submits that the petitioner is behind bars since 28.04.2019. It is submitted that except the disclosure statement of the co-accused there is no material evidence collected by the prosecution qua the petitioner and hence, the case against the petitioner is virtually without any evidence. He submits that out of total 33 prosecution witnesses only 09 have been examined so far. He submits in all there are total 05 accused in the present case and out of them 04 accused are on bail and the case of the petitioner is on much better footing than that of the co-accused. He submits that de hors the allegations made in the petition, the custody of the petitioner is virtually about 06 years and till date the prosecution has not been able to conclude the trial. It is submitted that the speedy trial is the fundamental right of every accused and the material witnesses already stand examined. Thus, in the facts and circumstances of the case the petitioner deserves to be granted bail.

4. Per contra, learned State counsel has also opposed the submissions made by the counsel for the petitioner and submits that the petitioner had not only participated in the occurrence but had also caused injuries to the deceased. However, she submits that the name of the petitioner was disclosed by the co-accused during his disclosure. She submits that out of total 33 prosecution witnesses, 09 have already been given up and as on date 11 witnesses have been examined. She placed on record the custody certificate of the petitioner.

5. After hearing counsel for the parties and perusing the record, it is deciphered that the occurrence in the present case took place about 06 years back. The petitioner though was not named in the FIR, however, his name surfaced during the disclosure and thus, he was arrested on 28.04.2019 since then he is behind bars. There is no denial to the fact that four co-accused, have already been released on bail. This Court finds that the trial is in progress since

last 06 years. The petitioner though is an accused in a murder trial, however, the speedy trial is his fundamental right. The prosecution has no plausible answer regarding the delay in the trial. The custody certificate produced would show undisputedly that the petitioner has completed an actual incarceration of 06 years, 02 months and 23 days as on 23.07.2025. It further reflects that petitioner is involved in 03 other cases, although in two of the cases he is on bail and in one case he is in custody.

6. The Hon'ble Supreme Court in ***Ashim @ Asim Kumar Haranath Bhattacharya @ Asim Harinath Bhattacharya @ Aseem Kumar Bhattacharya Vs. National Investigation Agency, 2022(1) SCC 695*** has held as under:

“Deprivation of personal liberty without ensuring speedy trial is not consistent with Article 21 of the Constitution of India. While deprivation of personal liberty for some period may not be avoidable, period of deprivation pending trial/appeal cannot be unduly long. At the same time, timely delivery of justice is part of human rights and denial of speedy justice is a threat to public confidence in the administration of justice.”

7. The Hon'ble Supreme Court in a recent decision dated 03.07.2024 in ***Javed Gulam Nabi Shaikh Vs. State of Maharashtra***, Criminal Appeal No. 2787 of 2024, has held that howsoever serious a crime may be, an accused has the right to speedy trial under the Constitution of India.

8. The veracity of the allegations and counter allegations would be assessed only after the conclusion of the trial and on the appreciation of evidence to be led by both the parties before the trial Court. This Court would refrain itself from commenting anything on the merits of the case. The trial of the case will take sufficient long time. Keeping in view the arguments raised by both the sides and perusing the record, this Court is of the opinion that

learned counsel for the petitioner succeeds in making out a case for grant of regular bail to the petitioner.

9. Accordingly, the present petition is allowed and the petitioner is ordered to be released on bail on his furnishing bail/surety bonds to the satisfaction of the concerned trial Court/Duty Magistrate.

10. It is being clarified that in case the petitioner does not furnish bail/surety bonds within a period of one week from today, his custody will not be counted in the present case after one week.

11. Nothing said herein shall be treated as an expression of opinion on the merits of the case.

23.07.2025

Parveen kumar

(RAJESH BHARDWAJ)
JUDGE

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