



CRM-M-20348-2025

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

223-224

1. CRM-M-20348-2025

Akashdeep Sharma @ Akash

...Petitioner

VERSUS

State of Punjab

...Respondent

And

2. CRM-M-24374-2025

Nitish Kumar

...Petitioner

VERSUS

State of Punjab

...Respondent

Date of Decision : 22.09.2025

CORAM: HON'BLE MS. JUSTICE AARADHNA SAWHNEY

Present: Mr. Priyanshu Kamra, Advocate
for the petitioner in CRM-M-24374-2025.

Mr. Anmol Verma, Advocate for the
petitioner in CRM-M-20348-2025.

Mr. Kamalpreet Bawa, DAG Punjab.

AARADHNA SAWHNEY, J. (ORAL)

This order shall dispose of aforesaid petitions as common questions of law and facts are involved in the same. For the sake of convenience, facts are being extracted from CRM-M-24374-2025.

By virtue of the present petition under Section 483 BNSS, petitioners, who are accused in case bearing FIR No.434 dated 30.09.2024 registered against them for commission of offences punishable under Sections 309(4),3(5) enhanced



under Section 341 (2), 311, 324(2), 238 of BNS Act, 2023 at P.S Zirakpur, District SAS Nagar Mohali have prayed for grant of bail.

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

“Sh. Ashok Kumar son of Late Sh. Vijay Ram Gadawan, resident of Police Station Dalli, District Shimla (HP), who is taxi driver by profession, set the criminal law in motion by filing a complaint pointing therein that on 29.09.2024, he had to pick up a customer from the Airport (Shimla) in his taxi bearing No.HP-01-A-8533. After parking the car on the slip road little ahead of the Airport near Naraingarh checkpost, he slept in the car. At about 2.00/2.30 AM, he was woken up by a noise and saw three boys in muffled faces approaching near the park. Boys were armed with sword and knife and before he could react, they broke the window pane of the driver seat and snatched the keys from him and sped in the car towards Mohali. Primarily with these backdrop, he requested the police officials to catch hold of the miscreants and to get recovered the snatched car and his mobile phone kept in the car as also initiate appropriate criminal proceedings against those found involved in the incident. On the basis of said complaint, FIR was registered and investigation was set into motion. On 11.10.2024, Investigating Officer received a secret information that Prabhjot Singh @ Paras, Nitish Kumar and Akashdeep Sharma @ Akash were seen roaming in Banur in a car bearing registration No.PB39-K-0088. The informer further intimated that all the three persons mentioned above had committed several offences. Relying upon the said information, all the three were arrested on 12.10.2024. At the instance of co-accused Akashdeep Sharma @ Akash, motorcycle bearing registration No.PB65-N-2287, (make Splendor), which was used in the commission of offence was recovered and, was taken into possession. Further inquiries revealed that the motorcycle was registered in the name of



father of the accused Akashdeep. During interrogation, all three confessed to their involvement in the commission of offence, as also that they had affixed false registration number on the Taxi PB39-K-0088 on the snatched vehicle, which is parked in a parking area of Block-29, Banur. Pursuant to the said disclosure statement, Toyota car bearing PB39-K-0088 with its conductor-side mirror broken was taken into possession. Snatched mobile phone (make Vivo) was also recovered. Both the car and the mobile phone were taken into possession. Offence under Section 341(2) of BNS was added. Information received from the Registering Authority revealed that Toyota Car No. PB39-K-0088 was registered in the name of complainant. It further came to the notice of the Investigating Officer that all the three accused had thrown the weapons used by them. Resultantly, Section 311 of BNS was added. On culmination of investigation, challan complete in all respect was filed before the concerned Court.”

3. Petitioners, who have been in custody since 12.10.2024, filed an application for grant of bail before learned Addl. Sessions Judge, SAS Nagar. The same were dismissed vide orders dated 01.03.2025/03.03.2025 respectively. Aggrieved of the said order, present petitioners have filed the present petition under Section 483 of BNSS.

4. Learned counsel for the petitioners submits that the petitioners have been falsely implicated in the present case. Allegations levelled against them and other accused are totally frivolous. Investigation in the present case is complete, for, challan has been filed but since even the charges have not been framed till date, completion of trial is likely to take some time. At this stage, learned counsel for the petitioners has also drawn the attention of this Court towards the copies of the interim orders passed by the learned JMIC, Dera Bassi, vide which the other two accused namely Prabhjot Singh and Nitish have not been produced in the court and repeatedly production warrants have been issued in routine casual



manner. No efforts were made by the learned Magistrate to immediately seek presence of all the three accused and in routine, production warrants were issued. So much so, that one of the accused Akashdeep, who admittedly is in custody has been marked 'Absent'. Taking into consideration the long custody period of petitioner, it has been prayed to take a lenient view in favour of the petitioner by extending him the concession of bail, as his further incarceration would not serve any useful purpose. Further, as per learned counsel, petitioner undertakes to abide by all the conditions so imposed by the Court, while extending the concession of bail to him.

5. Status report by way of an affidavit of Mr. Jaspinder Singh, S.P, Sub Division Zirakpur, District SAS Nagar Mohali filed in CRM-M-24374-2025 is taken on record. Learned State counsel has opposed the request for grant of bail on the ground that the manner in which the incident was committed by the petitioner and his two accomplices as also the fact that recovery of the snatched Taxi Toyota was effected at their instance, clearly indicates their complicity in the incident. He further submits that in the wake of questionable past antecedents of the petitioner-Nitish, who is involved in FIR No.330 dated 28.07.2024 under Secvtions 309(4),310(2),308(2),331(6),111 BNS registered at P.S Zirakpur, District SAS Nagar, no lenient view deserves to be taken in their favour, for if extended the concession of bail, there is every likelihood of them fleeing from the process of justice by not appearing in the Court, as also overawing the complainant and related witnesses who have till date not been examined. Dismissal of both the petitions has been prayed for.

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



5. It is settled principle that grant of Bail is the rule and jail is the exception. Hon'ble Supreme Court in "Gurbaksh Singh Sibbia V. State of Punjab", ((1980) 2 SCC 5) held as under:-

"27. It is not necessary to refer to decisions which deal with the right to ordinary bail because that right does not furnish an exact parallel to the right to anticipatory bail. It is, however, interesting that as long back as in 1924 it was held by the High Court of Calcutta in Nagendra v. KingEmperor [AIR 1924 Cal 476, 479, 480 : 25 Cri LJ 732] that the object of bail is to secure the attendance of the accused at the trial, that the proper test to be applied in the solution of the question whether bail should be granted or refused is whether it is probable that the party will appear to take his trial and that it is indisputable that bail is not to be withheld as a punishment. In two other cases which, significantly, are the 'Meerut Conspiracy cases' observations are to be found regarding the right to bail which deserve a special mention. In K.N. Joglekar v. Emperor [AIR 1931 All 504 : 33 Cri LJ 94] it was observed, while dealing with Section 498 which corresponds to the present Section 439 of the Code, that it conferred upon the Sessions Judge or the High Court wide powers to grant bail which were not handicapped by the restrictions in the preceding Section 497 which corresponds to the present Section 437. It was observed by the court that there was no hard and fast rule and no inflexible principle governing the exercise of the discretion conferred by Section 498 and that the only principle which was established was that the discretion should be exercised judiciously. In Emperor v. Hutchinson [AIR 1931 All 356, 358 : 32 Cri LJ 1271] it was said that it was very unwise to make an attempt to lay down any particular rules which will bind the High Court, having regard to the fact that the legislature itself left the discretion of the court unfettered. According to the High Court, the variety of cases that may arise from time to time cannot be safely classified and it is dangerous to make an attempt to classify the cases and to say that in particular classes a bail may be granted but not in other classes. It was observed that the principle to be deduced from the various sections in the Criminal Procedure Code was that grant of bail



is the rule and refusal is the exception. An accused person who enjoys freedom is in a much better position to look after his case and to properly defend himself than if he were in custody. As a presumably innocent person he is therefore entitled to freedom and every opportunity to look after his own case. A presumably innocent person must have his freedom to enable him to establish his innocence.

28. *Coming nearer home, it was observed by Krishna Iyer, J., in Gudikanti Narasimhulu v. Public Prosecutor [(1978) 1 SCC 240 : 1978 SCC (Cri) 115] that: (SCC p. 242, para 1)*

“... the issue of bail is one of liberty, justice, public safety and burden of the public treasury, all of which insist that a developed jurisprudence of bail is integral to a socially sensitized judicial process. . . . After all, personal liberty of an accused or convict is fundamental, suffering lawful eclipse only in terms of procedure established by law. The last four words of Article 21 are the life of that human right.”

29. *In Gurcharan Singh v. State (Delhi Administration) [(1978) 1 SCC 118 : 1978 SCC (Cri) 41] it was observed by Goswami, J., who spoke for the court, that: (SCC p. 129, para 29)*

“29“There cannot be an inexorable formula in the matter of granting bail. The facts and circumstances of each case will govern the exercise of judicial discretion in granting or cancelling bail.”

30. *In AMERICAN JURISPRUDENCE (2d, Volume 8, p.806, para 39), it is stated:*

“Where the granting of bail lies within the discretion of the court, the granting or denial is regulated, to a large extent, by the facts and circumstances of each particular case. Since the object of the detention or imprisonment of the accused is to secure his appearance and submission to the jurisdiction and the judgment of the court, the primary inquiry is whether a recognizance or bond would effect that end.”

It is thus clear that the question whether to grant bail or not depends for its answer upon a variety of circumstances, the cumulative effect of which must enter into the judicial verdict. Any one single circumstance cannot be treated as of universal validity or as necessarily justifying the grant or refusal of bail.



In the case of Rup Bahadur Magar @ Sanki @ Rabin Vs. State of West Bengal, Criminal Appeal No.4144 of 2024 decided on 04.10.2024, in a case under Sections 394, 395, 397, 307 read with 120-B of IPC, Hon'ble Supreme Court granted bail to the accused considering long incarceration undergone by him of 2 years and 9 months.

In the case of Javed Gulam Nabi Shaikh Vs. State of Maharashtra and Anr., (2024) 9 SCC 813, the Supreme Court while granting bail to accused for 04 years in paragraph Nos.16 and 17 held as under:-

16. Criminals are not born but made. The human potential in everyone is good and so, never write off any criminal as beyond redemption. This humanist fundamental is often missed when dealing with delinquents, juvenile and adult. Indeed, every saint has a past and every sinner a future. When a crime is committed, a variety of factors is responsible for making the offender commit the crime. Those factors may be social and economic, may be, the result of value erosion or parental neglect; may be, because of the stress of circumstances, or the manifestation of temptations in a milieu of affluence contrasted with indigence or other privations

17. If the State or any prosecuting agency including the court concerned has no wherewithal to provide or protect the fundamental right of an accused to have a speedy trial as enshrined under Article 21 of the Constitution then the State or any other prosecuting agency should not oppose the plea for bail on the ground that the crime committed is serious. Article 21 of the Constitution applies irrespective of the nature of the crime.”

Recently, a Co-ordinate Bench of this Court in Neelkamal Singh Alias Billa Vs. State of Punjab passed in CRM-M-39765-2024 has held that although an accused may have past criminal antecedents but nonetheless if the incarceration period is long, he is entitled for the concession of bail.



“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 “Hussainara Khatoon and ors (IV) v. Home Secretary, State of Bihar, Patna”, (1980) 1 SCC 98. Besides this, reference can be drawn upon that pre-conviction period of the under-trials should be as short as possible keeping in view the nature of accusation and the severity of punishment in case of conviction and the nature of supporting evidence, reasonable apprehension of tampering with the witness or apprehension of threat to the complainant. As far as the pendency of other cases and involvement of the petitioner in other cases is concerned, reliance can be placed upon the order of this Court rendered in CRM-M-25914-2022 titled as “Baljinder Singh alias Rock vs. State of Punjab” decided on 02.03.2023, wherein, while referring Article 21 of the Constitution of India, this Court has held that no doubt, at the time of granting bail, the criminal antecedents of the petitioner are to be looked into but at the same time it is equally true that the appreciation of evidence during the course of trial has to be looked into with reference to the evidence in that case alone and not with respect to the evidence in the other pending cases. In such eventuality, strict adherence to the rule of denial of bail on account of pendency of other cases/convictions in all probability would land the petitioner in a situation of denial of concession of bail.”

7. In the present case, petitioners were arrested on 12.10.2024 and have been in custody since then. Till date, even charges have not been framed against the accused. Perusal of interim orders dated 06.05.2025, 20.05.2025, 03.06.2025, 17.06.2025 and 01.07.2025 appended as Annexures P.4 to P.8 reveal that no sincere efforts were made by the learned Magistrate to immediately seek presence of all the three accused and in routine production warrants were issued. So much



so, that one of the accused Akashdeep, who admittedly is in custody was marked 'Absent' on the abovesaid dates. Repeated guidelines have been issued by this Court to take up the cases of accused, who are in custody, on priority basis and speed up the trial, but it appears that the learned trial Court is oblivious of these instructions. When appreciated in the light of the facts that have been brought on record, the Court is of the opinion that no useful purpose would be served by further detention of the petitioner, as the same, without the prospect of trial being concluded in the near future, would be violative of his rights under Article 21 of the Constitution of India, including right to speedy trial and would, thus, also be against the principle of "Bail is a general rule and incarceration is an exception" as held by Hon'ble Supreme Court in *Dataram vs. State of Uttar Pradesh and another*, 2018(2) R.C.R. (Criminal) 131.

As regards the submission of learned State counsel with respect to the questionable past antecedents of one of the petitioner is concerned, suffice it would be point out that as per settled law, bail application of the petitioner can solely not be rejected on the ground that he is involved in another case.

Resultantly, both the petitioners namely Nitish Kumar and Akashdeep Sharma @ Akash are granted the concession of bail subject to their furnishing two bail/surety bonds to the satisfaction of learned trial Court/Duty Magistrate concerned. The petitioners shall abide by the following conditions:-

- (i) The petitioners will not leave the country without permission of the Court.*
- ii) The petitioners will not tamper with the evidence during the trial.*
- (iii) The petitioners will not pressurize/ intimidate the prosecution witnesses.*
- (iv) The petitioners will appear before the trial Court on each and every date fixed, unless is exempted by a specific order of Court.*



- (v) *The petitioners shall not commit an offence similar to the offence of which, he is an accused, or for commission of which he is suspected of.*
- (vi) *The petitioners 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.*
- (vii) *The petitioners shall not in any manner misuse his liberty.*
- (viii) *The petitioners 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.*
- (ix) *The petitioners shall not leave the country without prior permission of the trial Court.*
- (x) *The trial Court/Duty Magistrate may impose any other condition, as deemed appropriate while releasing the petitioner.*

8. Accordingly, both the petitions are allowed and it is made 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 petitioners by this order.

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.

(AARADHNA SAWHNEY)
JUDGE

22.09.2025
manoj

Whether Speaking/reasoned	Yes/No
Whether Reportable	Yes/No