



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

CRM-M-23116-2025 (O&M)

Reserved on : 28.10.2025

Pronounced on : 31.10.2025

Himanshu @Hitesh

..... Petitioner

VERSUS

State of Haryana

..... Respondent

CORAM: HON'BLE MR. JUSTICE SURYA PARTAP SINGH

Argued by: Mr. Ajay Ghangas, Advocate for the petitioner.

Ms. Deepali Verma, AAG, Haryana.

SURYA PARTAP SINGH, J.

1. For the commission of offence punishable under Sections 302, 34 and 120B of the Indian Penal Code and Sections 25 and 27 of Arms Act, the FIR No.367 dated 12.10.2021 has been lodged in Police Station Asauda, District Jhajjar. The petitioner is being prosecuted for the commission of abovementioned offence and he has been arrested. The petitioner is in custody and, therefore, craving for bail. This is first petition seeking for grant of bail, filed by the petitioner, under Section 483 of the Bharatiya Nagarik Suraksha Sanhita, 2023.

2. In nut-shell, the facts emerging from record are that the FIR of this case came into being on the statement of Pardeep Kumar, hereinafter being referred to as 'complainant' only. According to complainant, his younger brother, namely Inderjit, was the property dealer at Delhi. As per



complainant, on 11.10.2021 at about 08:30 pm, his brother Inderjit along with Ravi and Amit went to Ashirwad Hotel at Rohtak-Sampla Road, and when Ravi and Amit went to the counter for booking a room and Inderjit was sitting in his vehicle, make Jeep Compass, three boys riding on the motorcycle came there, fired several gunshots upon Inderjit and injured him. As per complainant, the injured was taken to Civil Hospital by Ravi and Amit, where he was declared dead.

3. Heard.

4. It has been contended on behalf of the petitioner that the petitioner is innocent having no nexus, whatsoever, with the commission of crime. According to learned counsel for the petitioner, the instant case is a case, wherein the name of assailants does not find mentioned in the FIR. As per learned counsel for the petitioner, in fact during the course of investigation, when accused Virender @Kala and Himanshu @Goga were arrested, and on the basis of their disclosure statements the accused Bunty Sarpanch was arrested, he suffered a disclosure statement and implicated the petitioner in the present case.

5. According to the learned counsel for the petitioner, any weapon of offence has not been recovered from the possession of petitioner, which can connect the petitioner with the commission of crime, and that except the disclosure statement of co-accused, there is no other evidence to link the petitioner with the commission of crime.



6. In addition to above, the learned counsel for the petitioner has also argued that the petitioner has already suffered a lot of incarceration for being in custody for a period of almost 02 years and 05 months, and that the trial is proceeding at a very slow pace, as out of 32 prosecution witnesses, only 20 have been examined so far. The learned counsel for the petitioner has also argued that the name of the petitioner has cropped-up solely on the basis of disclosure statement, suffered by the co-accused Bunty Sarpanch, and that Bunty Sarpanch has already been afforded the benefit of bail by virtue of order dated 22.10.2024.

7. *Per contra*, the learned State Counsel has argued that allegations against the petitioner are for the commission of very serious offence, and that the petitioner is not having clean antecedents as he is already facing trial in two other cases also, in addition to the present case. According to the learned State Counsel, there is apprehension that if the petitioner is released on bail, he may influence the witnesses or tamper with the evidence.

8. The record has been perused carefully.

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

- i) that the petitioner has already suffered a lot of incarceration for being in custody for a period of almost 02 years and 05 months;
- ii) that the benefit of bail has already been afforded to the co-accused, namely Bunty Sarpanch;



- iii) that another accused, in this case, namely Virender @Kala, who was the first person to be arrested by the police, has already been acquitted by the Court.
- iv) that the CCTV footage, which has formed the basis for identification of assailants, is not clear enough and the prosecution witnesses have specifically deposed that on the basis of CCTV footage, they are unable to identify the assailants.
- v) that nothing is left to be recovered from the possession of petitioner;
- vi) that the trial is not likely to be concluded in near future;
- vii) that detention of petitioner in judicial lockup is not likely to serve any purpose; and
- viii) that there is nothing on record to show that if released on bail, the petitioner may influence the witnesses.

10. With regard to the legal aspect involved in the instant case, it is relevant to mention 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”.

11. The principles laid down by the Hon’ble the Supreme Court of India in the case of **‘Satender Kumar Antil Vs. Central Bureau of Investigation and Another’**, 2022 LiveLaw (SC) 577, are also relevant in this case. In the abovementioned 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”.*



12. 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 mandated by Hon'ble Apex court in "*Balwinder Singh versus State of Punjab and Another*", *SLP (Crl.) No.8523/2024*.

13. If the cumulative effect of all the abovementioned 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.

14. 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 personal bond and surety bond(s) to the satisfaction of learned 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 Court concerned and shall notify the change in address to the trial Court, till the final disposal of the case; and
- (iii) that the petitioner shall not leave India without prior permission of the trial Court.

15. 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 31, 2025
Gaurav Thakur

Whether speaking / reasoned	Yes/No
Whether Reportable	Yes/No