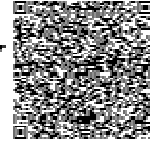


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2025:PHHC:111977



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IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

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Date of decision: August 25, 2025

Rampal Kadyan

....Petitioner

Versus

State of Haryana

....Respondent

CORAM: HON'BLE MR. JUSTICE SUMEET GOEL

Present:- Mr. Rishi Lal, Advocate for the petitioner.

Mr. Gurmeet Singh, AAG Haryana.

Mr. Ajay Kadyan, Advocate for the complainant.

SUMEET GOEL, J. (ORAL)

1. Present second petition has been filed under Section 483 of the Bharatiya Nagarik Suraksha Sanhita, 2023 (for short 'BNSS') for grant of regular bail to the petitioner in case bearing FIR No.136 dated 06.03.2024, registered for the offences punishable under Section 307 of the Indian Penal Code, 1860 (for short 'IPC') and Sections 27 & 30 of the Arms Act, 1959, at Police Station Sector-29, Industrial Area, District Panipat.

2. The case set up in the FIR in question (as set out in the present petition by the petitioner) is as follows:

"Copy of complaint is attached. To SHO Sahab Police Station Sctor-29, Panipat. Sir ji It is submitted that I Vinod Son of Shri Bhupan Singh, am resident of Village Sewah, District Panipat. Yesterday dated 05.03.2024, in evening time around 9:45 PM in night. I and my brother Nagender were going from our home for tethering our cattle in the plot. On the way, Rampal Son of Bhalle Ram was standing in front of Chaupal, when we crossed the Rampal then Rampal started giving filthy language to us. Then we asked him, why he is using filthy language against us and by saying this we crossed and went forward. Then Rampal by coming from back side, fired shot on my brother Nagender with intent to kill him. That the bullet after piercing into the arm of my brother entered into the back. He fired the shot with intent to kill. Rampal has also tried to fire again. Then I pushed him and he fell down and hi weapons also fell down from his

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hand. Then he fled away from the spot. After his leaving from the place of occurrence, I had seen his weapon, which was lying at the place of occurrence. I had taken the weapon and taken by brother at our home and from home, I had taken my brother to Park Hospital for treatment on bike. At the same time, I have given the revolver to Doctor Sahab of Park Hospital. In the night, I was busy in the treatment of my brother. I have given the complaint in written to you. I am requesting to you that strict to strict legal action be taken against accused Rampal.”

3. Learned counsel for the petitioner has iterated that the petitioner is in custody since 16.03.2024. Learned counsel has further iterated that the petitioner has been falsely implicated into the FIR in question. Learned counsel has iterated that there was an impending dispute between the petitioner and the complainant side on account of which FIR in question was got registered against the petitioner. Learned counsel has further iterated that the petitioner has suffered incarceration for more than 01½ years. Learned counsel has argued that the prime private prosecution witnesses, i.e., FIR/complainant and the victim stand examined. Thus, regular bail is prayed for.

4. Learned State counsel has opposed the present petition by arguing that the allegations raised against the petitioner are serious in nature and thus the petitioner does not deserve the concession of the regular bail. Learned State counsel seeks to place on record the custody certificate dated 22.08.2025, in the Court today, which is taken on record.

5. Learned counsel for the complainant has vehemently opposed the grant of regular bail to the petitioner by arguing that there is clear, cogent and convincing evidence against the petitioner in the form of testimony of the FIR/complainant/ victim, who have withstood lengthy cross-examination and have clearly testified to the guilt of the petitioner. Learned counsel has further argued that in case the petitioner is released on regular bail, there is all likelihood that he may threaten the FIR/ complainant as also the victim. On the strength of these submissions, dismissal of the present petition is entreated for.

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6. I have heard counsel for the rival parties and have gone through the available records of the case.

7. The petitioner was arrested on 16.03.2024 whereinafter investigation was carried out and challan was presented on 14.05.2024. Total 17 prosecution witnesses have been cited, but only 03 have been examined till date. It is not in dispute that prime prosecution witnesses, i.e., FIR/ complainant and the victim stand examined. Further nothing perceptible has been brought forth to indicate that the petitioner may flee from the process of justice. The petitioner has suffered incarceration of more than 01½ years. The rival contentions raised at Bar give rise to debatable issues, which shall be ratiocinated upon during the course of trial. This Court does not deem it appropriate to delve deep into these rival contentions, at this stage, lest it may prejudice the trial. Nothing tangible has been brought forward to indicate the likelihood of the petitioner absconding from the process of justice or interfering with the prosecution evidence.

7.1. Indubitably, the present petition is the second attempt by the petitioner to secure regular bail. The last bail plea preferred by the petitioner was dismissed as withdrawn on 25.10.2024. However, keeping in view further incarceration of the petitioner for a period of almost 09 months and no substantial progress in trial, this Court is inclined to favourably consider the instant plea for bail. A profitable reference, in this regard, can be made to a judgment of this Court passed in ***CRA-S-2332-2023*** titled as ***Rafiq Khan versus State of Haryana and another***, relevant whereof reads as under:

“10. As an epilogue to the above discussion, the following principles emerge:

I Second/successive regular bail petition(s) filed is maintainable in law & hence such petition ought not to be rejected solely on the ground of maintainability thereof.

II. Such second/successive regular bail petition(s) is maintainable whether earlier petition was dismissed as

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withdrawn/dismissed as not pressed/dismissed for non-prosecution or earlier petition was dismissed on merits.

III For the second/successive regular bail petition(s) to succeed, the petitioner/applicant shall be essentially/pertinently required to show substantial change in circumstances and showing of a mere superficial or ostensible change would not suffice. The metaphoric expression of seeking second/successive bail plea(s) ought not be abstracted into literal iterations of petition(s) without substantial, effective and consequential change in circumstances.

IV No exhaustive guidelines can possibly be laid down as to what would constitute substantial change in circumstances as every case has its own unique facts/circumstance. Making such an attempt is nothing but an utopian endeavour. Ergo, this issue is best left to the judicial wisdom and discretion of the Court dealing with such second/successive regular bail petition(s).

V In case a Court chooses to grant second/successive regular bail petition(s), cogent and lucid reasons are pertinently required to be recorded for granting such plea despite such a plea being second/successive petition(s). In other words, the cause for a Court having successfully countenanced/entertained such second/successive petition(s) ought to be readily and clearly decipherable from the said order passed.”

7.2. As per custody certificate dated 22.08.2025 filed by learned State counsel, the petitioner has already suffered incarceration for a period of 01 year, 05 months and 05 days. Further, the said custody certificate reflects that the petitioner is involved in another FIR No.943 dated 24.09.2014, for commission of offences punishable under Sections 148, 149, 323, 341, 506, 435, 307, 511 of IPC, registered at Police Station Chandni Bagh, Panipat, but it has been brought forth that, vide judgment dated 05.08.2015, the petitioner/ Ram Pal has been acquitted in the said FIR.

Suffice to say, further detention of the petitioner as an undertrial is not warranted in the facts and circumstances of the case.

8. In view of above, the present petition is allowed. Petitioner is ordered to be released on regular bail on his furnishing bail/surety bonds to the satisfaction of the Ld. concerned CJM/Duty Magistrate. However, in addition to conditions that may be imposed by the concerned CJM/Duty Magistrate, the petitioner shall remain bound by the following conditions:

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- (i) The petitioner shall not mis-use the liberty granted.
- (ii) The petitioner shall not tamper with any evidence, oral or documentary, during the trial.
- (iii) The petitioner shall not absent himself on any date before the trial.
- (iv) The petitioner shall not commit any offence while on bail.
- (v) The petitioner shall deposit his passport, if any, with the trial Court.
- (vi) The petitioner shall give his cellphone number to the Investigating Officer/SHO of concerned Police Station and shall not change his cell-phone number without prior permission of the trial Court/Illaq Magistrate.
- (vii) The petitioner shall not in any manner try to delay the trial.

9. In case of breach of any of the aforesaid conditions and those which may be imposed by concerned CJM/Duty Magistrate as directed hereinabove or upon showing any other sufficient cause, the State/complainant shall be at liberty to move cancellation of bail of the petitioner.

10. Ordered accordingly.

11. Nothing said hereinabove shall be construed as an expression of opinion on the merits of the case.

12. Since the main case has been decided, pending miscellaneous application, if any, shall also stands disposed off.

(SUMEET GOEL)
JUDGE

August 25, 2025
mahavir

Whether speaking/reasoned: Yes/No

Whether reportable: Yes/No