

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

2025:PHHC:164049



(287)

CRA-S-1656-2025 (O&M)

Date of decision: 26.11.2025

Date of uploading: 26.11.2025

Krishna

....Petitioner

V/s

State of Haryana and another

....Respondents

CORAM: HON'BLE MR. JUSTICE SUMEET GOEL

Present: Mr. Aashish Kumar, Advocate for the appellant.

Mr. Deepak Kumar Grewal, DAG, Haryana
for respondent No.1.

Mr. Bhupender Singh, Advocate for respondent No.2.

SUMEET GOEL, J. (ORAL)

1. The appellant has preferred the present appeal filed under Section 14A(2) of the SC/ST Act seeking regular bail in case FIR No.342 dated 02.08.2022 registered for the offences punishable under Sections 346, 302, 201 & 120-B of IPC and Section 3(2)(v) of the SC/ST Act, at Police Station Taraori, District Karnal.

“To SHO, Police Station Taraori, Request is that I am Ombir son of Ilam chand caste, Chamar resident near Subhash grocery shop, ward no. 7, Dayanagar Taraori. My brother Dharmbir son of Ilam chand on 31.07.22 at 6.00 pm a boy named Sonu called my brother Dharmbir son of Ilam chand from his phone number 9253118002 through my brother's phone number 7206699717 to Taraori, T- Point and said that they will go to

Karnal but my brother Dharmbir's phone is switched off. We have searched for my brother everywhere till now but he has not been found anywhere. Description of my brother Age 38 years Height 5 feet 7 inches Education 8th pass, thin lean face, long white shirt, lower maroon complexion, wearing white power shoes on feet, hence I request you to get my brother searched legally and appropriate legal action should be taken against Sonu.”

3. Learned counsel for the appellant has argued that the appellant has been falsely implicated into the FIR in question. Learned counsel for the appellant has further iterated that the appellant is in custody since 07.08.2022. Learned counsel has iterated that the case in hand is one of eye witness account and the primarily based on circumstantial evidence i.e. call details record (CDR) between the appellant and the co-accused Sonu Dhiman. Learned counsel appearing for the appellant has further iterated that the police has falsely attributed the motive upon the appellant being an illicit relationship with the co-accused. Learned counsel has further iterated that the appellant is in custody for more than 3 years, 3 months and 16 days with the likelihood of the culminating of the trial in near future being bleak. Thus, regular bail is prayed for.

4. Learned State counsel assisted by Mr. Bhupender Singh, Advocate for the complainant have opposed the present appeal by arguing that the allegations raised against the appellant are direct/serious in nature. Learned counsel have further submitted that CDR does reflect that the appellant was in active touch with the co-accused Sonu Dhiman during the time period when the murder was committed. Learned counsel have further submitted that the co-accused of the appellant namely Sonu Dhiman

had actually given the mobile phone to the present appellant which has also been recovered from her. On the strength of these submissions dismissal of present appeal is prayed for. Learned State counsel seeks to place on record custody certificate dated 25.11.2025 in Court, which is taken on record.

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

6. It is not in dispute the appellant is in custody since 07.08.2022 and challan was presented on 31.01.2023. Total 24 prosecution witnesses have been cited, out of which 11 have been examined and one has been given up till date. It is not in dispute that prime prosecution witness including the FIR-complainant stands examined. At this juncture, it would be apposite to refer herein to the *dicta* passed by the Hon'ble Supreme Court ***Javed Gulam Nabi Shaikh vs. State of Maharashtra and another, 2024(3) RCR (Criminal) 494***, relevant whereof reads thus:

“18. Criminals are not born out 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.

19. 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.”

The rival contentions raised at Bar give rise to debatable issues 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. No useful purpose would be served by keeping the petitioner behind bars for further period.

6.1. The appellant is a lady aged about 31 years (as per memo of parties appended with the appeal), hence, bail plea ought to be considered in view of proviso to Section 480(2) BNSS. It is pertinent to mention herein that the proviso to Section 480 BNSS, 2023, is *pari materia* with proviso to Section 437 Cr.P.C., 1973. In this regard, it would be apposite to refer herein to a judgment passed by this Court on 14.03.2024 in **CRM-M-11503-2024** titled as ‘**Ravinder Kaur Vs. State of Punjab**’ (dealing with proviso to Section 437 Cr.P.C.), relevant thereof reads as under:

“It would be apposite to refer herein to the dicta of a judgment of the Hon'ble Supreme Court in a case of ‘Satender Kumar Antil Vs. Central Bureau of Investigation & Anr., 2022(10) SCC 51’, which held as under:

51. Proviso to Section 437 of the Code mandates that when the accused is under the age of sixteen years, sick or infirm or being a woman, is something which is required to be taken note of. Obviously, the court has to satisfy itself that the accused person is sick or infirm. In a case pertaining to women, the court is expected to show some sensitivity. We have already taken note of the fact that many women who commit cognizable offenses are poor and illiterate. In many cases, upon being young they have children to take care of, and there are many instances when the children are to live in prisons. The statistics would show that

more than 1000 children are living in prisons along with their mothers. This is an aspect that the courts are expected to take note of as it would not only involve the interest of the accused, but also the children who are not expected to get exposed to the prisons. There is a grave danger of their being inherited not only with poverty but with crime as well.

xxxx

xxxx

xxx

58. Section 437 of the Code empowers the Magistrate to deal with all the offenses while considering an application for bail with the exception of an offense punishable either with life imprisonment or death triable exclusively by the Court of Sessions. The first proviso facilitates a court to conditionally release on bail an accused if he is under the age of 16 years or is a woman or is sick or infirm, as discussed earlier. This being a welfare legislation, though introduced by way of a proviso, has to be applied while considering release on bail either by the Court of Sessions or the High Court, as the case may be. The power under Section 439 of the Code is exercised against an order rejecting an application for bail and against an offence exclusively decided by the Court of Sessions. There cannot be a divided application of proviso to Section 437, while exercising the power under Section 439. While dealing with a welfare legislation, a purposive interpretation giving the benefit to the needy person being the intendment is the role required to be played by the court. We do not wish to state that this proviso has to be considered favourably in all cases as the application depends upon the facts and circumstances contained therein. What is required is the consideration per se by the court of this proviso among other factors."

6.2. As per custody certificate dated 25.11.2025 filed by the learned State counsel, the appellant has suffered incarceration for a period of 3 years, 3 months and 16 days. Further, as per the said custody certificate the appellant is shown not to be involved in any other FIR/case

Suffice to say, the further detention of the appellant in custody is not required in the facts and circumstances of the case.

7. In view of the above, the appeal is allowed. Appellant is ordered to be released on regular bail on his furnishing bail/surety bonds to the satisfaction of the learned concerned CJM/Duty Magistrate. However, in addition to conditions that may be imposed by the concerned CJM/Duty Magistrate, the appellant shall remain bound by the following conditions:-

- (i) The appellant shall not mis-use the liberty granted.
- (ii) The appellant shall not tamper with any evidence, oral or documentary, during the trial.

- (iii) The appellant shall not absent himself on any date before the trial.
 - (iv) The appellant shall not commit any offence while on bail.
 - (v) The appellant shall deposit his passport, if any, with the trial Court.
 - (vi) The appellant shall give his cell phone 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/Illaqa Magistrate.
 - (vii) The appellant shall not in any manner try to delay the trial.
8. 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 appellant.
9. Ordered accordingly.
10. Nothing said hereinabove shall be construed as an expression of opinion on the merits of the case.
11. Since the main case has been decided, pending miscellaneous application, if any, shall also stands disposed off.

(SUMEET GOEL)
JUDGE

26.11.2025
Naveen

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