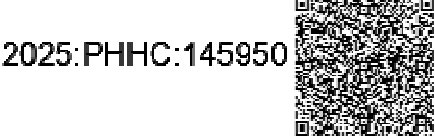


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IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

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Date of decision: October 27, 2025

Maya
.....Petitioner
Versus
State of Haryana
.....Respondent

CORAM: HON’BLE MR. JUSTICE SUMEET GOEL

Present:- Mr. Sahil Choudhary, Advocate for the petitioner.
Mr. Gurmeet Singh, AAG Haryana.

SUMEET GOEL, J. (ORAL)

Present 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.76 dated 07.03.2015, registered for the offences punishable under Sections 307 and 34 of the Indian Penal Code, 1860 (for short ‘IPC’) (Section 307 of IPC deleted and Section 302 of the IPC added later on), registered at Police Station Farakpur, District Yamunanagar.

2. The gravamen of the FIR in question is that on 06.03.2015, Nirmal Singh (complainant) made a statement before the police, alleging that he has two siblings—one brother and one sister. He is the eldest, while Rajinder @ Vicky is his younger brother and Preeti @ Lakhwinder Kaur is their youngest sister. He stated that about six years ago, he solemnized a love marriage with Baby (referred to as “victim B”), daughter of Bali Singh,

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and since then, he, along with his wife and children, had been residing separately in a rented house belonging to Bir Singh (*Fauji*). The couple had one son, Vikas, aged about five years. About one and a half years prior to the incident, the complainant had purchased an Indigo car, bearing registration number HR-02-2332. Approximately a week before the incident, his brother Rajinder @ Vicky and sister Preeti @ Lakhwinder Kaur visited his residence and started demanding their share in the said car. This led to an argument between them; however, the complainant pacified the matter and sent them back.

On 05.03.2015, at about 3:00 p.m., while the complainant was away from home, Rajinder @ Vicky allegedly came to the house and forcibly took the key of the said car from the complainant's wife. Upon returning home, the complainant was informed by his wife about the incident. He telephonically contacted his brother and demanded the return of the key, but the latter refused. Later the same day, at about 10:30 p.m., while the complainant was resting after dinner, both Rajinder @ Vicky and Preeti @ Lakhwinder Kaur entered his room and started quarrelling with his wife regarding the earlier dispute over the car. During the altercation, Preeti @ Lakhwinder Kaur allegedly picked up a plastic container containing kerosene from the room and poured it on the complainant's wife, while Rajinder @ Vicky ignited a matchstick and set her ablaze. The complainant immediately covered his wife with a blanket and quilt and extinguished the flames by pouring water. Thereafter, both accused fled from the spot. Neighbours, namely Harish, Geeta, and Gurdev Singh, arrived and assisted him in calling an ambulance. He then shifted his wife to Civil Hospital, Yamuna Nagar, where she was given first aid and referred to PGI,

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Chandigarh for further treatment. The complainant got his wife admitted to PGI, Chandigarh; however, during treatment, Baby, wife of the complainant, succumbed to her burn injuries.

3. Learned counsel for the petitioner has iterated that the petitioner is in custody since 14.01.2024. Learned counsel has further iterated that the petitioner has been falsely implicated into the FIR in question. Learned counsel has iterated that the petitioner was not attributed any specific role in the FIR in question. Learned counsel has further iterated that assuming *arguendo*, the prosecution version is taken to be correct, the petitioner is ascribed the role of catching hold of the deceased only and that too on account of a disclosure-statement made by co-accused. Learned counsel has urged that the petitioner is a lady aged 71 years. 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 has argued that the petitioner is named in the statement, recorded under Section 164 of the Cr. P.C., of the deceased, and thus, there is sufficient material available against the petitioner. Learned State counsel seeks to place on record the custody certificate dated 23.10.2025 in the Court today, 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. The petitioner was arrested on 14.01.2024 whereinafter investigation *qua* her was carried out and challan was presented on 04.04.2024. It is not disputed before this Court that total 30 prosecution

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witnesses have been cited, out of which only 04 have been examined till date.

At this juncture, it would be apposite to refer herein to a judgment of the Hon'ble Supreme Court in ***Javed Gulam Nabi Shaikh vs. State of Maharashtra and anothers, 2024(3) RCR (Criminal) 494***, in which, it has been held as under:

“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.

20. We may hasten to add that the petitioner is still an accused; not a convict. The over-arching postulate of criminal jurisprudence that an accused is presumed to be innocent until proven guilty cannot be brushed aside lightly, howsoever stringent the penal law may be.

21. We are convinced that the manner in which the prosecuting agency as well as the Court have proceeded, the right of the accused to have a speedy trial could be said to have been infringed thereby violating Article 21 of the Constitution.”

Indubitable, conclusion of the trial will take long time. 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.

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6.1. The petitioner is a lady aged about 71 years, hence, bail petition 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."

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6.2. As per custody certificate dated 23.10.2025 filed by learned State counsel, the petitioner has already suffered incarceration for a period of 01 year, 09 months and 09 days. Further, as per the said custody certificate the petitioner is stated to be involved in other FIR(s). However, this factum cannot be a ground sufficient by itself, to decline the concession of regular bail to the petitioner in the FIR in question when a case is made out for grant of regular bail *qua* the FIR in question by ratiocinating upon the facts/circumstances of the said FIR. Reliance in this regard can be placed upon the judgment of the Hon'ble Supreme Court in *Maulana Mohd. Amir Rashadi v. State of U.P. and another, 2012 (1) RCR (Criminal) 586*, a Division Bench judgment of the Hon'ble Calcutta High Court in case of *Sridhar Das v. State, 1998 (2) RCR (Criminal) 477* & judgments of this Court in CRM-M No.38822-2022 titled as *Akhilesh Singh v. State of Haryana*, decided on 29.11.2021, and *Balraj v. State of Haryana, 1998 (3) RCR (Criminal) 191*.

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

7. In view of above, the present petition is allowed. Petitioner is ordered to be released on regular bail on her 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:

- (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 herself on any date before the trial.
- (iv) The petitioner shall not commit any offence while on bail.

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- (v) The petitioner shall deposit her passport, if any, with the trial Court.
- (vi) The petitioner shall give her cellphone number to the Investigating Officer/SHO of concerned Police Station and shall not change her cell-phone number without prior permission of the trial Court/Illaqa Magistrate.
- (vii) The petitioner 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 petitioner.

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

October 27, 2025

mahavir

Whether speaking/reasoned: Yes/No

Whether reportable: Yes/No