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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-26585-2025
Decided on : 26.08.2025

Sagar . . . Petitioner(s)

Versus

State of Haryana . . . Respondent(s)

CORAM: HON'BLE MR. JUSTICE SANJAY VASHISTH

PRESENT: Mr. Sanyam Khetarpal, Advocate
for the petitioner(s).

Mr. PK Jhanda, Sr. DAG, Haryana.

SANJAY VASHISTH, J. (Oral)

1. In the present regular bail petition, on 25.08.2025, following order was passed:-

“1. The instant petition has been filed under Section 483 of BNSS, 2023 (earlier Section 439 Cr.P.C.), for grant of regular bail to the petitioner, during the pendency of trial, who has been booked in a criminal case arising out of First Information Report, as detailed here-under:-

Name of Petitioner(s)	FIR No.	Date	Section(s)	Police Station	District
Sagar	503	14.10.2023	302/34 IPC, 1860	Dabua	Faridabad

3. Deceased in the present case is ‘Kaif Ahmad’, who allegedly had called his father, i.e., complainant – Wasim, informing him on phone that “Papa, a boy named Happy Fagna is troubling me”. On the next morning, around 10:00–11:00 A.M., on 13.10.2023, brother-in-law of the complainant, namely Nizamuddin, telephoned and informed him that his son Kaif Ahmad has been murdered by Happy Fagna.

4. Learned counsel for the petitioner submits that except for the said allegation, no specific role has been attributed to the petitioner, except that his name came to be associated along with other co-accused on the basis of suspicion linked to the main accused – Happy Fagna.

5. Referring to the status report dated 13.08.2025 filed by the State, learned counsel further submits that even the prosecution itself appears doubtful regarding the role of the petitioner, whether the petitioner along with Happy Fagna had caused any slap or punch to the deceased. This is because, as per the supplementary disclosure statement of the main accused – Happy Fagna, no such role of slapping or punching by the petitioner has been assigned.



For ready reference, paragraph No.5 of the status report is reproduced here-below:-

“5. That name of the **Petitioner** has surfaced in the **statement of Happy Fagna, who is main culprit in the present case**, wherein he specifically stated that Petitioner and Ravi has slapped and puched the deceased and was involved in the murder of the decsased Kaif. However, in Supplementary disclosure statement of Happy Fagna he has stated that the Petitioner and Sagar did not slapped and punched the deceased. Copy of disclosure statement dated 14.10.2023 and supplementary statement dated 16.10.2023 is appended herewith as **Annexure R-2 & R-3** respectively. **The Petitioner was arrested on 04.04.2025 and there is no recovery from the Petitioner.**”

6. By producing copy of statement dated 28.07.2025 of complainant – Wasim (PW1), learned counsel for the petitioner further submits that even the complainant, who is father of the deceased, has himself turned hostile. He, at best, reiterated only the allegations against the main accused – Happy Fagna, who was named by the deceased as causing him trouble. Copy of the statement of PW1 – Wasim (complainant) is taken on record, subject to all just exceptions. Office to tag the same at appropriate place. In view of the above, counsel prays for grant of concession of regular bail to the petitioner.

7. On the other hand, learned State counsel vehemently opposes the prayer for bail. He submits that petitioner was actively involved in the incident of murder, and the trial is presently fixed for recording of prosecution evidence. However, he is unable to dispute that the star witness of the case, i.e., PW1 – Wasim (complainant), who is father of the deceased, has himself turned hostile. Besides, petitioner has been in custody since 04.04.2025 and out of total 16 prosecution witnesses, only one has been examined so far.

8. At this stage, it is also noticed that the learned trial Judge, vide order dated 05.11.2024, in paragraph No.23, observed as under:

“23. In view, of the above, a prima-facie case for the alleged commission of the offence of Murder with common intention punishable under Section 302, 34 of the IPC was made out against accused Happy Phagna and others, namely Ravi and Sagar (who were exonerated by the concerned I.O./DSP during investigation, without reasonable grounds for the reasons best known tot he ASI/DSP named above). Accordingly, the application in hand, of the complainant (i.e. father of the deceased), for framing the charge-sheet of commission of the offence punishable under Section 302 instead of Section 304 of the IPC, is allowed.”

9. In such circumstances, learned State counsel shall clarify under what provision of law the aforesaid application was entertained and then allowed, resulting in framing of charges against those who had earlier been declared innocent.

10. List again on 26.08.2025.
To be shown in the urgent list.”



2. Today, learned State counsel submits that the Court of Sessions exercised its power under Section 193 Cr.P.C. and, in exercise thereof, summoned the petitioner, as an accused, on its own.

3. This Court is of the considered view that the sustainability of summoning the petitioner as an accused is not the issue to be examined in the present petition. What falls for consideration here is the prayer for regular bail, as the question of personal liberty of the petitioner is directly involved. Besides, as per the allegations, no specific role has been attributed to the petitioner in the FIR, except on suspicion of accompanying the main accused. Furthermore, the complainant – Wasim (PW1), has himself turned hostile and failed to support the prosecution version even qua the main accused. In these circumstances, no useful purpose would be served by keeping the petitioner incarcerated for an indefinite period in the absence of any specific attribution highlighted by the State. Accordingly, the prayer for grant of regular bail deserves due consideration.

4. Consequently, prayer made in the present petition is **allowed**. Petitioner – Sagar, is ordered to be released on bail, subject to his furnishing bail/surety bonds to the satisfaction of the learned trial Court/ Chief Judicial Magistrate/ Illaqa Magistrate/ Duty Magistrate concerned, if not required in any other case.

5. Needless to observe that the petitioner shall not extend any threat and shall not influence any prosecution witness in any manner directly or indirectly.

6. The observation made here-in-above shall not be construed as an expression of opinion on the facts of the case and the Trial Court is



expected to decide the case on the basis of complete evidence available on record.

7. Petition stands disposed of.

(SANJAY VASHISTH)
JUDGE

August 26, 2025
J.Ram

Whether speaking/reasoned: *Yes/No*
Whether Reportable: *Yes/No*