



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

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CRM-M No.27931 of 2025 (O & M)
Date of decision : 11.8.2025

Sumit**.....Petitioner****Versus****State of Haryana****.....Respondent****CORAM: HON'BLE MR. JUSTICE SUMEET GOEL**

Present: Mr. Manoj Tanwar, Advocate, for the petitioner

Mr. Vishal Singh, AAG, Haryana

SUMEET GOEL, J. (ORAL)

1. Present 3rd 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 FIR No.47 dated 30.1.2023, under Sections 302 and 34 of IPC, registered at Police Station Ganaur, District Sonapat.
2. The case set up in the FIR in question (as set out in the present petition by the petitioner) is as follows:-

'To the SHO Police Station Ganaur, Respected sir It is prayed that I Rahul son of Dhanpat r/o Lalheri Kalan at present residing as tenant in Gali No.3, Panchi Road, Gandhi Nagar, Ganaur. We are two brothers. I am eldest and youngest was Ankit of aged 19 years. My brother Ankit and Ankit @ Mankit son of Ramesh Tyagi resident of Pardhanawas, Mohalla Ganaur and Mohit @ Kedi son of Ram Singh r/o Nayabas were good friends. About 6-7 months back Ram Kishan lodged one false FIR against Ankit @ Mankit's brother Abhishek @ Golu about teasing of his daughter



Sarita in which Golu is still in Jail. Since that day Ram Kishan and his family members nourished grudge against Ankit @ Mankit and his family members. Sumit son of Ram Kishan had threatened my brother Ankit that if he would continue the visiting terms with house of Ankit @ Mankit then you have to face the consequences. Yesterday, in the morning my brother Ankit had left the house and in search of him I was going to the house of Ankit @ Mankit. Then at about 10:30 /11:00 PM when I reached in the street near the house of Mankit then I saw that Ram Kishan was having danda in his hand. His daughter Sarita was having Bat and Ram Kishan's son Sumit was having in his hand and they were inflicting injuries to Ankit. Mankit and Kedi were trying to rescue him and Ankit was lying on the ground. Ram Kishan's wife Santra was also giving kick and feast blows to Ankit. I also tried to save my brother and created hue and cry. Then Ram Kishan, His daughter, wife and son ran away alongwith their arms. My brother has died due to injuries caused by these 4 persons. Kindly take appropriate legal action against these accused persons. Sd/-Rahul.]

3. Learned counsel for the petitioner has argued that the petitioner is in custody since 9.3.2023. Learned counsel has further argued that the petitioner has been falsely implicated into the FIR in question. Learned counsel for the petitioner has further submitted that there is material discrepancy in the prosecution version and testimony of the FIR-complainant. Learned counsel has further argued that the petitioner has clean antecedents. Thus, regular bail is prayed for.

4. Learned State counsel has opposed the present petition by arguing that the allegations raised 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 custody certificate dated 10.8.2025 in Court, which is taken on record.

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



6. The petitioner was arrested on 9.3.2023 whereinafter investigation was carried out and challan stands presented on 11.4.2023. Total 21 prosecution witnesses have been cited out of which only three have been examined till date. It is not in dispute that prime prosecution witness namely; the FIR-complainant already stands examined. The rival contentions raised at Bar give rise to debatable issues which shall be essentially 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.

6.1 As per *zimni* orders brought forth on record, it is indubitable that the trial is procrastinating and the folly thereof cannot be fastened upon the petitioner. It would be apposite to refer herein to a judgment passed by the Hon'ble Supreme Court in ***Criminal Appeal No.2787 of 2024*** titled as ***Javed Gulam Nabi Shaikh vs. State of Maharashtra and another***, decided on 03.07.2024; relevant whereof reads as under:-

"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.”

6.2 As per custody certificate dated 10.8.2025 filed by learned State counsel, the petitioner has already suffered incarceration for a period of more than 2 years and 4 months & is not shown to be involved in any other case.

The petition in hand is, indubitably, the third bail petition preferred by the petitioner. The first and second bail petitions were dismissed as withdrawn on 13.08.2024 and 17.02.2025 respectively. Indubitably, a change in circumstances is inevitable for maintainability of the second/subsequent bail petition—prolonged incarceration undergone by the accused after the rejection of the earlier bail petition constitutes a weighty and relevant consideration in adjudication of the second bail plea. The passage of time and the period of custody cannot be ignored, especially where trial is unlikely to conclude in the near future. Keeping in view the extended incarceration of the petitioner and the slow pace of the trial, this Court is inclined to favourably consider the instant petition. It would be apposite to refer herein a judgment of this Court in **Rafiq Khan v. State of Haryana and another**, CRA No.2332 of 2023 decided on 22.2.2024.

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 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:-

- (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 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 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.

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11. Pending miscellaneous application(s), if any, stand disposed of accordingly.

(SUMEET GOEL)
JUDGE

11.8.2025
Ashwani

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