

2025:PHHC:072418



223.

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

CRM-M-28116-2025

Date of decision: 27.05.2025

Pardeep Kumar @ Jonny

.... Petitioner

Versus

State of Haryana

.... Respondent

CORAM: HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

Present: Mr. Saransh Sabharwal, Advocate, for the petitioner.

Mr. Rajat Gautam, Addl. A.G., Haryana.

MANJARI NEHRU KAUL, J. (ORAL)

1. Prayer in this petition filed under Section 483 of BNSS, 2023, is for grant of regular bail to the petitioner in case FIR No.37, dated 27.09.2021, under Sections 148, 149, 302, 307, 427 of IPC (Sections 201, 120-B IPC added lateron), registered at Police Station Sector 7, Panchkula, District Panchkula.

2. Learned counsel for the petitioner submits that the petitioner has been in custody since 28.10.2021 and till date, trial has not concluded. Learned counsel has still further submitted that although it is stated to be an eyewitness account, however, both the material witnesses, i.e. the complainant as well as PW2-Anand Singh, who were present at the scene of crime, while testifying before the Trial Court, had not supported the case of the prosecution qua the petitioner; although, PW2 supported the case of the

prosecution, however, he too, during his testimony, categorically stated that no injury was inflicted upon the deceased in his presence, much less by the petitioner. In support, learned counsel has drawn the attention of this Court to the testimonies of the complainant, PW9-Rinku, as well as the testimony of Anand Singh, PW2, which is annexed with the petition. Learned counsel submits that in the circumstances, since both the material witnesses stand examined, further incarceration of the petitioner would serve no useful purpose, as the possibility of trial concluding in the near future does not arise, coupled with the fact that there can now be no apprehension of the petitioner intimidating/influencing any of the witnesses.

3. *Per contra*, learned State counsel, while opposing the prayer and submissions made by the counsel opposite, on instructions, has not disputed the custody period of the petitioner nor has he, on instructions, disputed that both the material witnesses/eyewitnesses, including the complainant stand examined. On further instructions, it has not been disputed that the complainant was declared hostile during trial and as far as PW2-Anand Singh is concerned, although he supported the case of the prosecution, yet he failed to categorically state that any injury was inflicted upon the deceased in his presence by the petitioner. Learned State counsel, however, has drawn the attention of this Court to the allegations levelled in the FIR, which stands reproduced hereinunder:-

“Complaint is attached herewith as: Statement of Rinku s/o Suraj Bhan resident of H. No. 152, Power Colony, Phase-2, Sector 19 and age about 34 years Mb. No.77430 52202, stated that I am resident of above address and I am doing the business

of sale and purchase of second hand vehicles. On dated 26.09.2021 in the night, I along with my friends Rinku son of Amarjit resident of Ropar and Anand resident of Himshikha Colony, Panchkula were coming to Majri Chowk in my car bearing registration no. HR05-6636, after having dinner at Simran Hotel, Mamta Enclave in Zirakpur. At about 11.30 PM we stopped near Majri Chowk Bus Stop, two cars and two motorcycles stopped near our car and around 10/12 persons got down, who were in possession of swords, gandasi and dandas and they started vandalizing my car with their weapons, then all three of us got out of the car and started running to save our lives and then one of them, Shekhar resident of Maheshpur raised lalkara and said that all these should not be spared. The boys who came with them namely **Joni alias Pardeep** resident of Khadak Magauli presently residing at Handesara, Pappi son of unknown resident of Sector 20, Vakeeli son of unknown resident of Kharak Mangauli, Manish alias Bahadur son of Jagbir resident of Kharak Mangauli, Babbi resident of Fatehpur Sector 20, Panchkula, Bada Bahadur son of Mangu and other 7/8 boys, I can recognize them when they come in front of me, in connivance of each other, attacked on Rinku son of Amarjit with their weapons and injured his face or head and we all ran towards Colony to save our lives, while running I saw Rinku was lying down and everyone was attacking him with weapons. At that time, we were entered in Kharak Magauli to save our lives. Thereafter, about 10/15 minutes, when we came back at the spot then we saw that Rinku was lying dead on the ground and a lot of blood was scattered on the spot. Rinku son of Amarjit has been killed by all the above mentioned people together with swords, gandasi or sticks and the same has been done by the above persons due to old rivalry. Legal action should be taken against all of them. I have gave my statement to you in written and I had read the same and same is correct. Sd/- Rinku.”

4. It has been contended by the learned State counsel that a perusal of the FIR reveals that the petitioner has been specifically named therein and he actively participated in the crime in question; he was armed with *gandasi* with which he inflicted injuries upon the deceased.

5. I have heard learned counsel for the parties and perused the material placed on record.

6. Undisputedly, the complainant, who is the most material witness in the instant case and who was present at the scene of the crime, was declared hostile during trial as he failed to identify the petitioner nor did he even remotely levelled any allegations of participation against him. Even as far as PW2-Anand Singh is concerned, another eyewitness to the occurrence in question, he did not attribute any injury to the petitioner in the occurrence in question. The petitioner has been in custody for more than 3 ½ years having been arrested on 28.10.2021. Only 18 prosecution witnesses out of 44 cited have been examined so far. The trial therefore is unlikely to conclude in the near future.

7. Although custody certificate dated 26.05.2025 which has been filed by the learned State counsel in Court today, reflects that the petitioner stands convicted in another criminal case, however, as per said custody certificate, the petitioner is not on bail in the said case.

8. Be that as it may, in the facts and circumstances as enumerated hereinabove, this Court deems it fit to extend the concession of bail to the petitioner.

9. Accordingly, the instant petition is allowed and the petitioner be admitted to bail on his furnishing bail/surety bonds to the satisfaction of the Trial Court/Duty Magistrate concerned. However, it is made clear that

anything observed hereinabove shall not be construed to be an expression of opinion on the merits of the case.

10. Needless to add, in case the petitioner misuses the concession of bail granted to him, the State would be at liberty to seek cancellation of the same.

(MANJARI NEHRU KAUL)
JUDGE

May 27, 2025
sanjeev

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