

CRM-M-28515-2025

2025:PHHC:112964



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

CRM-M-28515-2025

Date of decision: August 26, 2025

Rajesh @ Rajesh Kumar

....Petitioner

Versus

State of Haryana

....Respondent

CORAM: HON'BLE MR. JUSTICE SUMEET GOEL

Present:- Mr. Keshav Pratap Singh, Advocate,
Mr. Rajat Singh, Advocate and
Mr. Arun Sangwan, Advocate for the petitioner.

Mr. Gurmeet Singh, AAG Haryana.

Ms. Nirmala, Advocate for
Mr. Himanshu Bansal, Advocate for the complainant.

SUMEET GOEL, J. (ORAL)

1. 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.169 dated 13.04.2023, registered for the offences punishable under Sections 302, 285, 201, 148, 149, 120-B of the Indian Penal Code, 1860 (for short 'IPC') and Section 25 of the Arms Act, 1959 (for short 'Arms Act') (Sections 201, 120-B of IPC added later on), at Police Station City Sohna, District Gurugram.

2. The gravamen of the FIR in question is that on 12.04.2023 at about 8.00 AM, complainant (Lalit) alongwith his cousin brother Gyanender Bhola (deceased), in white swift car, came to Neta Farm House at Sohna-

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Palwal Road. At about 5.40 PM, when both of them came out of the farm house for smoking, then three vehicles, i.e., one black scorpio, one white Venue and one white Baleno came, and 15-20 persons alighted from the said vehicles. They encircled the complainant and his cousin brother. Two boys put pistols upon the complainant and made him to sit on the ground. Other co-accused, namely, Bharat and Kapil were armed with axes, Manish and Rohit were armed with hammers, Ajay was having pistol, Lalit alias Lalti, Rajesh (present petitioner) and Azad were having iron rods, and some other 8-10 unknown persons gave fatal injuries to his cousin brother Gyanender Bhola, who succumbed to his injuries.

3. Learned counsel for the petitioner has iterated that the petitioner is in custody since 21.12.2023. Learned counsel has iterated that the petitioner has been falsely implicated into the FIR in question. Learned counsel has further argued that the petitioner is alleged to be armed with iron rod, but there is no recovery effected from him. Learned counsel also argued that the trial is procrastinating and the same is not on account of folly of the petitioner. In this regard, learned counsel has drawn attention of this Court to various *zimni* orders passed by the learned trial Court, especially, orders dated 22.11.2024, 14.01.2025, 04.02.2025 and 18.03.2025, which reflect that repeatedly warrants have been issued against the witnesses, including, FIR/complainant (Lalit), but they are intentionally not coming forth. 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 further submitted that the petitioner has other

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FIR(s) registered against him and thus, he ought not to be extended concession of regular bail. Learned State counsel seeks to place on record the custody certificate dated 25.08.2025, in the Court today, which is taken on record.

5. Learned counsel for the complainant has vehemently opposed grant of regular bail to the petitioner by arguing that there are serious and direct allegations against the petitioner. She has further iterated that in case, the petitioner is released on bail, there is all likelihood that he may intimidate the witnesses as also flee from the process of justice. On the strength of these submissions, dismissal of the petition is entreated for.

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

7. The petitioner was arrested on 12.12.2023 whereinafter investigation was carried out and challan was presented on 19.01.2024. Total 55 prosecution witnesses have been cited, out of which, only 06 have been examined till date. It is thus, indubitable that conclusion of the trial will take its own 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.

7.1. As per *zimni* orders passed by the learned trial Court, as brought forth before this Court, it is indubitable that the trial is procrastinating and the petitioner ought not to be saddled with the folly thereof. A perusal of the *zimni* orders further reflect that various prosecution

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witnesses, including FIR/ complainant (Lalit) are not coming forward for examination despite repeated issuance of warrants against them.

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

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.”

7.3. As per custody certificate dated 25.08.2025 filed by learned State counsel, the petitioner has already suffered incarceration for a period of 01 year, 08 months and 05 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

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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 factual milieu of the case.

8. 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 cellphone 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.

9. 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

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State/complainant shall be at liberty to move cancellation of bail of the petitioner.

- 10. Ordered accordingly.
- 11. Nothing said hereinabove shall be construed as an expression of opinion on the merits of the case.
- 12. Since the main case has been decided, pending miscellaneous application, if any, shall also stands disposed off.

(SUMEET GOEL)
JUDGE

August 26, 2025
mahavir

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