2025:PHHC:091851

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

237

CRM-M-29152-2025 (O&M)
Date of decision: 24.07.2025

Mukesh Kumar @ Tillu

....Petitioner

Versus

State of Punjab

....Respondent

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Mr. Amjad Khan, Advocate
for the petitioner.

Mr. Nitesh Sharma, DAG, Punjab.

HARPREET SINGH BRAR J. (Oral)

1. Prayer in this petition filed under Section 483 of the BNSS, 2023, is for grant of regular bail to the petitioner in FIR No.120 dated 27.11.2020 registered under Sections 323, 341, 506, 34 IPC (Section 302 IPC added later on) at Police Station Phase-11, District S.A.S. Nagar (Mohali).

2. As per the prosecution case, the FIR (supra) has been registered on the basis of statement made by one Suraj Kumar, who stated that he was working as Security Guard at Saint Mariya School, Phase-11, Mohali from 7.00 AM to 7.00 PM and his father Ghaniya Lal is also working as Security Guard from Satkar Security and Land Group at New NCB Government Flats, Sector 66, Mohali. On 26.11.2020 at about 08.30 PM, the complainant went from his house for delivering food to his father Ghaniya Lal at the gate of NCB Flats, Sector 66, Mohali and he found that the gate was closed as it opens only from

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inside the guard room due to electronic sensors operated from inside the guard room. He saw that three persons were arguing and abusing his father Ghaniya Lal, while standing inside the aforesaid gate. These three persons namely Rajinder Kumar, Ajay Kumar and Mukesh Kumar @ Tillu were working as painters inside the flats for the last 5-6 days. Thereafter, Ajay Kumar inflicted blow on the head of Ghaniya Lal with some article, during the aforesaid quarrel and as a result of the same, his father Ghaniya Lal fell on the ground. Thereafter, Tillu and Rajinder Kumar had inflicted leg blows in the ribs of his father Ghaniya Lal. The whole occurrence has been witnessed by him from outside the gate. The complainant raised alarm and after hearing the alarm, the Supervisor Kuldeep Sharma reached at the spot and in the meanwhile, the above said accused ran away from the spot, while abusing and threatening them. Kuldeep Sharma, Supervisor had opened the electronic sensor gate after entering the guard room and thereafter, the complainant went inside and he alongwith Kuldeep Sharma had taken his father Ghaniya Lal to the Government Medical College and Hospital, Sector 32, Chandigarh for treatment, where he succumbed to injuries.

3. Learned counsel for the petitioner *inter alia* contends that the similarly situated co-accused namely Rajinder Kumar @ Ajay Kumar @ Totta has already been granted the concession of regular bail by this Court vide order dated 05.03.2025 passed in CRM-M-11130-2025. The perusal of the factual matrix clearly indicates that no offence under Section 302 IPC is made out and initially, the FIR (supra) was registered under Sections 323, 341 and 506 IPC and after 15 days, the

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offence under Section 302 IPC was added vide DDR No.21 dated 11.12.2020. Admittedly, a single blow with iron rod is alleged to have been given on the head of the deceased. Further admittedly, the petitioner and deceased were not earlier known to each other and the incident had taken place at the spur of a moment and at the most, the offence under Section 304(2) IPC is made out, which is punishable upto 10 years. Learned counsel for the petitioner further submits that no motive has been ascribed for the petitioner to have committed the murder of the deceased. The investigating agency has concluded the investigation and presented the final report on 07.03.2021 and charges were framed on 29.03.2022. The petitioner has suffered an incarceration of more than 04 years, 07 months and 05 days and till date, out of 21 prosecution witnesses, only 02 PWs have been examined so far. Learned counsel for the petitioner refers to the order dated 14.02.2025, passed by learned trial Court (Annexure P-5) and submits that the bailable warrants have been issued against the prosecution witnesses and the trial is likely to take long time in conclusion.

4. *Per contra*, learned State counsel has filed custody certificate today in the Court which is taken on record and he opposes the prayer made by learned counsel for the petitioner on the ground that the petitioner is the main accused and he has given fatal blow on the head of the deceased and the weapon of offence was recovered at the instance of the petitioner and as such, the complicity of the petitioner is duly established, however, he could not controvert the fact that the

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petitioner is in custody for the last more than 04 years, 07 months and 05 days and out of 21 PWs, only 02 PWs have been examined so far.

5. Having heard learned counsel for the parties and after perusing the record of the case, it transpires that the petitioner is behind the bars from the last 04 years, 07 months and 05 days as on 23.07.2025. Investigation is complete. The final report under Section 173 Cr.P.C. was presented before the concerned Court. Charges were framed and trial of the case has not made much progress. Out of 21 prosecution witnesses, only 02 PWs have been examined so far.

6. The foundational concept of the criminal jurisprudence is to ensure speedy trial. The Hon'ble Supreme Court has repeatedly reiterated that right to speedy trial is enshrined in Article 21 of the Constitution of India. Speedy trial would cover investigation, enquiry, trial, appeal, revision and retrial etc. i.e. everything starting with the accusation against the accused and expiring with the final verdict of the last Court.

7. It has further been held in law that if a person is deprived of his liberty under a procedure which is not reasonable, fair, or just, such deprivation would be violative of his fundamental right under Article 21 of the Constitution of India. The procedure so prescribed must ensure speedy trial for determination of the guilt of such person. Some amount of denial of personal liberty cannot be avoided, but if the period of deprivation pending trial becomes excessively long, the fairness guaranteed by Article 21 of the Constitution of India would come into play.

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8. In this regard, reference is being made to the law laid down by the Hon'ble Supreme Court in the context of right to speedy trial under Article 21 of the Constitution of India on the following decision:- ***Akhtari Bi Vs. State of M.P., (2001) 4 SCC 355, Surinder Singh Alias Shingara Singh Vs. State of Punjab, (2005) SCC (Crl) 1674, P. Ramachandra Rao Vs. State of Karnataka, (2002) 4 SCC 578, Babu Singh and others Vs. State of U.P., (1978) 1 SCC 579, Takht Singh and others Vs. State of M.P., (2001) 10 SCC 463; Special Leave to Appeal (Crl) No.2356 of 2010, Kushal Singh Vs. State of U.P. (2JJ.) and Fazal Vs. State of Uttar Pradesh, (2012) 5 SCC 752.***

9. In view the discussion above, the present petition is allowed. Accordingly, the petitioner namely Mukesh Kumar @ Tillu, is ordered to be released on regular bail during pendency of the trial, on his furnishing bail bonds/surety bonds to the satisfaction of Illaqa Magistrate/Trial Court/Duty Magistrate.

10. The present petition seeking regular bail to the petitioner is allowed solely on the ground of long custody already undergone by him. Nothing observed herein above shall be construed to be expression of an opinion by this Court on merits of the case. The learned Court below is directed to proceed with the matter on its own merits, lest it may prejudice the trial.

(HARPREET SINGH BRAR)
JUDGE

24.07.2025
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Whether speaking/reasoned: Yes/No
Whether reportable: Yes/No

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