



**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**
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CRM-M-31350-2025 (O&M)
Date of decision: 10.07.2025

Rahul Malik
.....Petitioner
Versus
State of Haryana
.....Respondent

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Mr. Saurabh Sharma, Advocate
for the petitioner.

Mr. Vikas Bhardwaj, AAG, Haryana.

HARPREET SINGH BRAR J. (Oral)

CRM-23443-2025

Allowed as prayed for.

CRM-M-31350-2025

1. Prayer in this 4th petition filed under Section 483 of the BNSS, 2023, is for grant of regular bail to the petitioner in FIR No.583 dated 21.11.2022 registered under Sections 120-B, 307 IPC and Section 25 of the Arms Act, 1959 at Police Station Thanesar City, District Kurukshetra. The 3rd petition filed by the petitioner seeking the same relief was dismissed as withdrawn on 27.11.2024.

1.1. Learned counsel for the petitioner submits that this 4th petition seeking regular bail to the petitioner has been filed with the changed circumstances as similarly situated co-accused namely Vishal



@ Vicky Sodhi, has been granted the concession of regular bail by this Court vide order dated 26.05.2025 passed in CRM-M-27816-2025.

2. As per the allegations in the FIR, on 21.11.2022 at about 03:15 PM, the complainant Pooja received a call from her husband Shamsheer Singh, informing her that Rahul Malik (petitioner herein), along with his accomplices Vicky Sodhi and Sachin Sudhail, had fired multiple gunshots at him outside his shop, K.K.S. Bartan Bhandar, with intent to kill, due to a grudge stemming from a prior incident occurred in the year 2021. Upon reaching the spot with her parents, Pooja found her husband injured with bullet wounds on both legs and one hand. She alleged that the attack was a premeditated act carried out after conducting reconnaissance, and she suspected the involvement of other individuals namely Gopi Chand, Rahul (Gopi's brother), Parveen, and Mandeep @ Kalu, who were previously involved in a fight occurred with her husband in the year 2021 which was settled in a panchayat. Shamsheer Singh was taken to LNJP Hospital for treatment, and thereafter, the impugned FIR was registered.

3. Learned counsel for the petitioner *inter alia* contends that as per the case set up by the prosecution, the complainant in the FIR (supra) has alleged that the gun-shots were fired upon her husband by the present petitioner – Rahul Malik as well as Vishal @ Vicky Sodhi, due to the grudge of previous enmity. Further a motorcycle is alleged to have been recovered on the basis of a disclosure statement and no fire-arm has been recovered from the petitioner.



4. Learned counsel for the petitioner fairly contends that although the petitioner is involved in other cases also, however, he is on bail in all those cases. He further submits that there are total 33 prosecution witnesses cited in the list of witnesses, out of which, only 02 PWs have been examined till date and the trial is likely to take long time in conclusion.

5. *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 has actively participated in committing the alleged crime and the victim suffered gunshots injuries and the petitioner is a habitual offender and is involved in five more cases, as such, in view of the criminal antecedental behaviour, the petitioner is not entitled to any relief.

6. 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 02 years, 05 months and 01 day. 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 33 prosecution witnesses, 02 PWs have been examined so far.

7. A two Judge Bench of Hon'ble Supreme Court in ***"Satender Kumar Antil vs. CBI"***, (2022) 10 SCC 51, with respect to prevailing conditions of undertrial prisoner in India has observed:



“6. Jails in India are flooded with undertrial prisoners. The statistics placed before us would indicate that more than 2/3rd of the inmates of the prisons constitute undertrial prisoners. Of this category of prisoners, majority may not even be required to be arrested despite registration of a cognizable offence, being charged with offences punishable for seven years or less. They are not only poor and illiterate but also would include women. Thus, there is a culture of offence being inherited by many of them. As observed by this Court, it certainly exhibits the mindset, a vestige of colonial India, on the part of the investigating agency, notwithstanding the fact arrest is a draconian measure resulting in curtailment of liberty, and thus to be used sparingly. In a democracy, there can never be an impression that it is a police State as both are conceptually opposite to each other.”

8. Further the culpability, if any, would be determined at the time of trial and as such, no useful purpose will be served by further detention of the petitioner-accused. Keeping the petitioner in further detention without the prospect of the trial being concluded in the near future, would be violative of his rights under Article 21 of the Constitution of India.

9. Further keeping in view the law laid down by the Hon’ble Supreme Court of India in **“Prabhakar Tewari vs. State of U.P. and another”** 2020 (1) R.C.R. (Criminal 831) and **“Maulana Mohd. Amir Rashadi vs. State of U.P. and another”**, 2012 (2) SCC 382, the involvement of the petitioner in other cases would not be a ground to refuse grant of concession of regular bail.



10. In view the discussion above and the fact that failure of prosecution to conclude the evidence within the reasonable dispatch would deliver the equity in favour of the petitioner, who has already suffered the incarceration of about 02 years and 05 months, the present petition is allowed. Accordingly, without commenting upon the merits of the case, the petitioner namely Rahul Malik is ordered to be released on regular bail during pendency of the trial, on furnishing bail bonds/surety bonds to the satisfaction of Illaqa Magistrate/Trial Court/Duty Magistrate.

11. Nothing observed hereinabove 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

10.07.2025
yakub

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