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(225) IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M-50418-2025 (O&M)
Date of decision : 22.12.2025

ABHISHEK KUMAR

... Petitioner

Versus

STATE OF HARYANA

...Respondent

CORAM: HON'BLE MRS. JUSTICE MANISHA BATRA (ORAL)

Present: Mr. Nikhil Chopra, Advocate,
Ms. Trishanjali Chopra, Advocate for the petitioner

Mr. Neeraj Poswal, AAG, Haryana

MANISHA BATRA, J. (ORAL)

1. The instant one is the third petition as filed by the petitioner for grant of regular bail in case arising out of FIR No.55, dated 04.02.2022, registered under Sections 148, 149, 323, 34, 341, 506 IPC (Section 324, 325, 326, 307, 120B IPC were added later on and Section 34 IPC was deleted), registered at Police Station Cheeka, District Kaithal, Haryana. Previous two petitions as filed by the petitioner have been dismissed as withdrawn.

2. The brief facts for disposal of this present petition are that the aforementioned FIR was registered on the basis of a complaint submitted by the complainant-Vijay Kapoor alleging that on the evening of 03.02.2022, he alongwith his nephew Gaurav Kapoor was going towards his house when some unknown persons riding on 4-5



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motorcycles intercepted them. All of them were armed with weapons and they opened an assault upon them. The petitioner was amongst them. They assaulted the complainant by causing injuries with their respective weapons. The petitioner struck a blow with sword thereby hitting on the head of the nephew of the complainant i.e. Gaurav Kapoor and the other assailants also caused injuries to them. While going away, the assailants extended threats to the complainant to enter into a compromise in FIR No.254 registered against them or otherwise they will eliminate the complainant. After registration of FIR, investigation proceedings were initiated. The petitioner was arrested on 02.03.2022. The co-accused were also arrested. Investigation now stands completed and the petitioner alongwith the co-accused is facing trial for commission of aforementioned offences.

3. It is argued by learned counsel for the petitioner that he has been falsely implicated in this case. He is in custody since long. The trial will take considerable time as only 04 out of 11 prosecution witnesses have been examined so far. The main witnesses, however, have been examined and ,therefore, there are no chances of his intimidating them. All other co-accused have been extended benefit of bail. On parity, he too deserves to be extended the benefit of bail. His continued detention would not serve any fruitful purpose. He is on bail in other cases as registered against him and cannot be denied benefit of bail, in this case because of his involvement in other cases. With these broad submissions, it is urged that the petition deserves to be allowed.

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4. Status report and custody certificate have been filed. It is argued by learned State counsel that there are serious allegations against the petitioner as he was the main assailant, in this case since he had caused injuries with sword on the head of the nephew of the complainant. The injury so sustained has been opined as dangerous to life. The petitioner has criminal antecedents. It is also argued by learned State counsel that the present one is the successive bail petition and is not maintainable. There are chances of his absconding or intimidating the witnesses or committing similar offences, if extended, benefit of bail. It is, thus, stressed that the petition does not deserve to be allowed.

5. This Court has heard the rival submissions made by the counsel for both the parties at considerable length.

6. The petitioner is alleged to have formed membership of an unlawful assembly with the co-accused and in persecution of common object thereof, is alleged to have caused simple as well as grievous injuries to the complainant and his nephew. The injury sustained by the nephew of the complainant had been declared to be dangerous to life. The allegations make out a prima facie established complicity of the petitioner in the commission of subject offences. However, he is in custody for a period of more than 03 years and 09 months. The trial is obviously likely to take time as several witnesses are yet to be examined. The co-accused have been extended benefit of bail. Taking into consideration the above discussed facts, this Court is of the considered opinion that no fruitful purpose would be served by detaining the petitioner in custody anymore. Pre-trial incarceration should not be a

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replica of post-conviction sentencing. It is well settled proposition of law that bail is the rule and jail is an exception. No doubt this is the third petition as filed by the petitioner and his previous two petitions for grant of bail were stands withdrawn. It is well settled proposition of law that each day spent in custody is to be considered as a sufficient ground for seeking concession of bail and is to be considered as a substantive change in the circumstances.

7. In view of the above discussion, this Court is of the opinion that a case is made out for grant of bail to the petitioner at this stage. Accordingly, the petition is allowed and the petitioner is ordered to be released on bail on his furnishing personal as well as surety bonds to the satisfaction of the learned trial Court/Chief Judicial Magistrate/Duty Magistrate concerned and on the following conditions :-

- (i) The petitioner shall not directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of the case or tamper with the evidence of the case in any manner whatsoever.
- (ii) The petitioner shall not leave the country under any circumstance without permission of the learned trial Court.
- (iii) The petitioner shall appear before the learned trial Court as and when directed.
- (iv) The petitioner shall provide his address where he would be residing after release and

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shall not change the same without informing the concerned IO/SHO.

(v) The petitioner shall upon his release give his mobile phone number to concerned IO/SHO and shall keep his mobile phone switched on all times.

(vi) The petitioner shall surrender his passport, if any, furnish details of his cell phone and Aadhaar card, and shall not change his mobile number(s) during the pendency of the trial.

8. It is clarified that the observations made above shall not be construed as an expression of opinion of this Court on the merits of the case and shall not influence the outcome of the trial in any manner.

9. Since the main petition has been allowed, pending application, if any, is rendered infructuous.

(MANISHA BATRA)
JUDGE

22.12.2025
Amit Sharma

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