



IN THE HIGH COURT OF PUNJAB & HARYANA  
AT CHANDIGARH

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CRM-M-34342-2025

Date of Decision : 26.11.2025

GAURAV KATARTIA @ GAURAV KUNAILIYA @ GORA

...Petitioner

VERSUS

STATE OF PUNJAB

...Respondent

CORAM: HON'BLE MS. JUSTICE AARADHNA SAWHNEY

Present: Ms. Simsi Dhir Malhotra, Advocate  
for the petitioner.

Mr. Gautam Thapar, Sr. DAG, Punjab.

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AARADHNA SAWHNEY, J. (ORAL)

1. This petition for grant of bail under Section 483 BNSS, has been filed by petitioner, an accused in case bearing FIR No.171 dated 09.11.2024 registered against him at Police Station Garshankar, District Hoshiarpur, at the instance of Rajvir Kaur (complainant), for the commission of offences punishable u/s 103(1), 3(5), 62(2) of BNS and Sections 25, 27, 54, 59 of Arms Act.

2. Relevant facts as emerging from documents on record be noticed hereinbelow:-

*Rajvir Kaur, wife of late Balwinder Singh, set the criminal law in motion by filing a complaint mentioning therein that she was married to Balwinder Singh about 12 years ago and is blessed with one son, namely, Ayjit Singh. On 09.11.2024, Balwinder Singh, her husband had gone to sow Barsin crop. At about 05.30 PM, she came to know that Gaurav Kataria @ Gora (present petitioner) had fired gun shots at her husband. Immediately, she along with her nephew rushed to the fields and saw Balwinder Singh lying in an*



*unconscious condition in the fields near the motor room. Blood was oozing from the wounds. Injured was rushed to the hospital, where unfortunately, he was declared brought dead. Complainant alleged that Gaurav Kataria @ Gora (petitioner) along with his unknown accomplices had murdered her husband by firing gun shots. Request was made to catch hold of all those, who were involved in the gruesome killing of her husband and also to initiate proceedings.*

On the basis of above mentioned complaint, a formal case vide FIR No.171 dated 09.11.2024, u/s 103(1), 3(5), 62(2) of BNS and Sections 25, 27, 54, 59 of Arms Act., was registered and criminal proceedings were set into motion. Investigating Officer visited the site, carried out the necessary inspection, conducted the inquest proceedings, and got the post-mortem examination of the deceased conducted. Board of doctors opined that the deceased had died due to injuries to his vital organs. Bullets recovered from the dead body, as also other articles handed over by the doctors were taken into possession.

Petitioner, who was specifically named in the FIR was arrested on 11.11.2024. During interrogation, he highlighted the sequence of events leading to death of Balwinder Singh. As per petitioner, on 09.11.2024, he along with others, namely, Amrit Pal, Sabhi Mistri, Balwinder Singh etc. were on their fields, where at about 05.00 PM, Sabhi Mistri received a phone call from Jaspreet Singh @ Jassa, who questioned as to whether he could get some 'Heroin'. Jaspreet Singh has also talked with Gaurva Kataria @ Gora (petitioner), after sometime Jaspreet Singh @ Jassa, Lovely Kataria @ Lovely, Rajiv Kumar @ Ballu arrived on motor cycle bearing registration No.CH-1-AS-6797. They all went to the motor room of Balwinder Singh, where they consumed the contraband. Jaspreet Singh @ Jassa demanded more 'Heroin' from Balwinder Singh (since deceased), when a verbal altercation occurred over

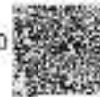


the payment of money. They conspired to snatch the 'Heroin' from Balwinder Singh, who was demanding excess money, but suddenly Balwinder Singh removed the 'Barcha' hanging on the wall of room and gave a blow with the same to the Jaspreet Singh @ Jassa. They all got scared that Balwinder Singh might attack them. Thereafter, Gaurav Kataria @ Gora and others instigated Jaspreet Singh @ Jassa to take out the pistol and shot at Balwinder Singh. Within a split of second, Jaspreet Singh fired gun shots at Balwinder Singh from close range, who fell down. Sensing trouble, Jaspreet Singh and his two accomplice fled away but locked Gaurav Kataria @ Gora (present petitioner), Amit Pal and Sebi Mistri in the room, from where petitioner managed to escape. On the basis of this disclosure statement Jaspreet Singh @ Jassa, Lovely Kataria @ Lovely and Rajiv Kumar @ Balu were nominated as co-accused. Statement of witnesses were recorded. Other investigation proceedings were carried out.

On culmination of investigation, challan completed in all respect was filed. Supplementary challan was also filed and charged were framed on 03.11.2025.

3. An application for grant of bail was filed by the present petitioner. The same was dismissed by the learned Additional Sessions Judge, Hoshiarpur, in terms of order dated 23.05.2025. Aggrieved of the same, the present petition has been filed.

4. Learned counsel for the petitioner contends that petitioner has been falsely implicated in the present case. The falsity of the case set up by the prosecution is apparent from the fact that in the complaint lodged by the wife of the deceased Smt. Rajvir Kaur, it had been alleged that petitioner had fired gun shots at her husband whereas, as per case of the prosecution, the shots were fired not by petitioner but by Jaspreet @ Jassa. Petitioner was not aware that minor verbal altercation over demand of more contraband would take an ugly turn. Petitioner and others, including the deceased, were consuming 'Heroin' in



motor room at the fields and Jaspreet Singh @ Jassa along with his two friends also joined them. When Jaspreet Singh @ Jassa demanded more contraband, Balwinder Singh suddenly asked for money and took out a 'Barcha' hanging on the wall, whereupon others, with a view to protect themselves, instigated Jaspreet Singh @ Jassa to fire at him. The incident occurred suddenly at the spur of the moment. It was not a premeditated fight. No one was expecting that things would come to such a pass. Learned counsel contends that apart from the disclosure statement of the petitioner, there is nothing else to indicate that petitioner had conspired with the other accused to kill Balwinder Singh, as also there is no eye-witness to the entire incident. Learned counsel contends that petitioner has been in custody since 11.11.2024, deserves a lenient view to be taken in his favour, for his further incarceration would not serve any useful purpose. Prayer for allowing the present petition has been made.

5. *Per contra*, while opposing the grant of bail, learned State counsel submits that petitioner was fully aware that co-accused Jaspreet Singh @ Jassa , who was demanding more contraband from Balwinder Singh (since deceased) was armed with a pistol. He (petitioner) and others present at the site exhorted Jaspreet Singh @ Jassa to fire gun shots at Balwinder Singh, who was armed with Barcha. The common object of all the accused developed at the site, who all sensing threat from Balwinder Singh being armed, exhorted Jaspreet Singh @ Jassa to fire gun shots. It is also the submission of learned State counsel that main-accused Jaspreet Singh @ Jassa and one of his other associate Rajiv Kumar @ Ballu has not been arrested till date. In view of the seriousness of gravity of offence, as also the fact that none of the prosecution witnesses has been examined till date, it has been prayed that no case for grant of bail is made out.

5. I have heard the learned counsel for the parties and with their able assistance, perused the record available on record.



6. It is settled principle that grant of Bail is the rule and jail is the exception. Hon'ble Supreme Court in "***Gurbaksh Singh Sibbia V. State of Punjab***", ((1980) 2 SCC 5) held as under:-

*"27. It is not necessary to refer to decisions which deal with the right to ordinary bail because that right does not furnish an exact parallel to the right to anticipatory bail. It is, however, interesting that as long back as in 1924 it was held by the High Court of Calcutta in [Nagendra v. King-Emperor](#) [AIR 1924 Cal 476, 479, 480 : 25 Cri LJ 732] that the object of bail is to secure the attendance of the accused at the trial, that the proper test to be applied in the solution of the question whether bail should be granted or refused is whether it is probable that the party will appear to take his trial and that it is indisputable that bail is not to be withheld as a punishment. In two other cases which, significantly, are the 'Meerut Conspiracy cases' observations are to be found regarding the right to bail which deserve a special mention. In [K.N. Joglekar v. Emperor](#) [AIR 1931 All 504 : 33 Cri LJ 94] it was observed, while dealing with Section 498 which corresponds to the present Section 439 of the Code, that it conferred upon the Sessions Judge or the High Court wide powers to grant bail which were not handicapped by the restrictions in the preceding Section 497 which corresponds to the present Section 437. It was observed by the court that there was no hard and fast rule and no inflexible principle governing the exercise of the discretion conferred by Section 498 and that the only principle which was established was that the discretion should be exercised judiciously. In [Emperor v. Hutchinson](#) [AIR 1931 All 356, 358 : 32 Cri LJ 1271] it was said that it was very unwise to make an attempt to lay down any particular rules which will bind the High Court, having regard to the fact that the legislature itself left the discretion of the court unfettered. According to the High Court, the variety of cases that may arise from time to time cannot be safely classified and it is dangerous to make an attempt to classify the cases and to say that in particular classes a bail may be granted but not in other classes. It was observed that the principle to be deduced from the various sections in the [Criminal Procedure Code](#) was that grant of bail is the rule and refusal is the exception. An accused person who enjoys freedom is in a much better position to look after his case and to properly defend himself than if he were in custody. As a presumably innocent person he is therefore entitled to freedom and every opportunity to look after his own case. A presumably innocent person must have his freedom to enable him to establish his innocence.*

*28. Coming nearer home, it was observed by Krishna Iyer, J., in [Gudikanti Narasimhulu v. Public Prosecutor](#) [(1978) 1 SCC 240 : 1978 SCC (Cri) 115] that: (SCC p. 242, para 1)*

*"... the issue of bail is one of liberty, justice, public safety and burden of the public treasury, all of which insist that a developed jurisprudence of bail is integral to a socially sensitized judicial process. . . . After all, personal liberty of an accused or convict is fundamental, suffering lawful eclipse only in terms of procedure*



*established by law. The last four words of [Article 21](#) are the life of that human right.”*

29. In [Gurcharan Singh v. State \(Delhi Administration\)](#) [(1978) 1 SCC 118 : 1978 SCC (Cri) 41] it was observed by Goswami, J., who spoke for the court, that: (SCC p. 129, para 29)

*“29“There cannot be an inexorable formula in the matter of granting bail. The facts and circumstances of each case will govern the exercise of judicial discretion in granting or cancelling bail.”*

30. In *AMERICAN JURISPRUDENCE* (2d, Volume 8, p.806, para 39), it is stated:

*“Where the granting of bail lies within the discretion of the court, the granting or denial is regulated, to a large extent, by the facts and circumstances of each particular case. Since the object of the detention or imprisonment of the accused is to secure his appearance and submission to the jurisdiction and the judgment of the court, the primary inquiry is whether a recognizance or bond would effect that end.”*

*It is thus clear that the question whether to grant bail or not depends for its answer upon a variety of circumstances, the cumulative effect of which must enter into the judicial verdict. Any one single circumstance cannot be treated as of universal validity or as necessarily justifying the grant or refusal of bail.”*

6. Factual aspects of the case have already been highlighted in para 2 of this order. In view of the submissions advanced by learned counsel for the petitioner but without commenting on the merits of the case, the Court is of the opinion that no useful purpose would be served by further detention of the petitioner (who has been in custody since 11.11.2024), as the same, without the prospect of trial being concluded in the near future, would be violative of his rights under Article 21 of the Constitution of India, including right to speedy trial and would, thus, also be against the principle of *“Bail is a general rule and incarceration is an exception”* as held by Hon’ble Supreme Court in ***Dataram vs. State of Uttar Pradesh and another, 2018(2) R.C.R. (Criminal) 131.***

Resultantly, petitioner is granted the concession of bail subject to his furnishing bail/surety bonds to the satisfaction of trial Court/Duty



Magistrate/Chief Judicial Magistrate concerned. In case, he is unable to arrange local sureties, he is at liberty to deposit the aforesaid amount in the treasury.

The petitioner shall further abide by the following conditions:-

*(i) The petitioner shall not leave the country without prior permission of the trial Court and shall deposit the passport in the trial Court.*

*(ii) The petitioner will not tamper with the evidence during the trial.*

*(iii) The petitioner will not pressurize/ intimidate the prosecution witnesses.*

*(iv) The petitioner will appear before the trial Court on each and every date fixed, unless is exempted by a specific order of Court.*

*(v) The petitioner shall not commit an offence similar to the offence of which, he is an accused, or for commission of which he is suspected of.*

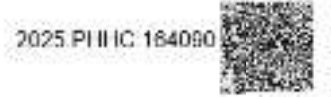
*(vi) The petitioner shall not directly or indirectly coerce, induce, threaten or promise to any person acquainted with the facts of the case so as to dissuade him/her from disclosing such facts to the Court or to any police officer or tamper with the evidence in any manner.*

*(vii) The petitioner shall not in any manner misuse his liberty.*

*(viii) The petitioner shall furnish his address and mobile number to the Trial Court forthwith and shall not change the same till the conclusion of the trial and in case for any reason, the petitioner seeks to change any of the aforesaid, the same shall be done only with prior intimation to the learned Trial Court, stating the reason for the same.*

*(ix) The trial Court/Duty Magistrate may impose any other condition, as deemed appropriate while releasing the petitioner.*

Accordingly, the present petition is allowed and it is made clear that in case there is any breach of the aforesaid conditions, the State shall be at liberty to seek cancellation of bail as granted to the petitioner by this order.



In view of the above, it is clarified that the observations made herein are limited for the purpose of present proceedings and would not be construed as an opinion on the merits of the case and the trial would proceed independently of the aforesaid observations.

(AARADHNA SAWHNEY)  
JUDGE

26.11.2025  
Nisha Yadav

|                                  |               |
|----------------------------------|---------------|
| <i>Whether Speaking/reasoned</i> | <i>Yes/No</i> |
| <i>Whether Reportable</i>        | <i>Yes/No</i> |