



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

294

**CRM-M No.34705 of 2025
Date of decision : 14.7.2025**

Ashok alias Shoki

.....Petitioner

Versus

State of Haryana

.....Respondent

CORAM: HON'BLE MR. JUSTICE SUMEET GOEL

Present: Mr. Sahil Choudhary, Advocate and
Mr. Abhishek Sindhvani, Advocate, for the petitioner

Mr. Deepak Grewal, DAG, Haryana

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 FIR No.116 dated 6.5.2024, under Sections 302 of the IPC, registered at Police Station Barauda, District Sonipat.
2. The case set up in the FIR in question (as set out in the present petition by the petitioner) is as follows:-

'To, Chowki Incharge Bhaiswan Khurd, Sir, I humbly request that I am Jaikwanr S/O Mahasingh village Mahara district Sonipat. And I do manual labour work. We had two (2) brothers. My elder brother Raj kumar alias Raja S/O Maha singh village whose age was about 42 years, my brother Raj kumar used to set up a Chowming/Burger cart. Today at about 2:00 AM my brother Raj kumar had gone to the house of my uncle Om prakash S/O Tikaram village Mahara. Ashok alias Shauki S/O Hawa singh village Mahara and Shyam S/O Purna village Mahara had also



gone to my uncle Omprakash's house. There on the roof of my uncle Omprakash's house, there was some altercation between my brother Rajkumar and Ashok about Shyam's daughter. Due to the altercation, Ashok alias Shauki picked up my brother Rajkumar and threw him down from the roof. My brother Rajkumar died on the spot after falling down. Then we took our brother to the Government Hospital in Gohana. My brother Rajkumar died because Ashok alias Shoki threw him down from the roof. Legal action should be taken against Ashok alias Shoki. SD JAI KUWAR 8684833791'

3. Learned counsel for the petitioner has argued that the petitioner is in custody since 7.5.2024. Learned counsel has further submitted that the petitioner has been falsely implicated into the FIR in question. Learned counsel has further submitted that there is no cogent evidence put forth by the prosecution alongwith the challan so as to warrant conviction of the petitioner. Learned counsel has further argued that prime prosecution witnesses namely, PW-4 Shyam and PW-5 Om Parkash have turned hostile. Learned counsel has further submitted that the complainant is intentionally not coming forward to have his testimony recorded and the trial Court constrained to issueailable warrants and thereafter arrest warrants against the said complainant. Thus, regular bail is prayed for.

4. Learned State counsel has opposed the present petition by arguing that the allegations raised are serious in nature and thus the petitioner does not deserve the concession of the regular bail. Learned State counsel seeks to place on record custody certificate dated 9.7.2025 in Court, which is taken on record.

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



6. The petitioner was arrested on 7.5.2024 whereinafter investigation was carried out and challan stands presented on 16.7.2024. Total 17 prosecution witnesses have been cited. Six prosecution witnesses stand examined. It is not in dispute that the complainant is not repeatedly coming forward to have his testimony recorded and thereupon the trial Court had earlier issued bailable warrants *qua* him and thereafter arrest warrants dated 4.7.2025 were issued against him. The rival contentions raised at the 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.

As per custody certificate dated 9.7.2025 filed by learned State counsel, the petitioner has already suffered incarceration for a period of more than one year and two months. As per the said custody certificate, the petitioner is stated to be involved in two other FIRs pertaining to Sections 379/411 of IPC. Indubitably, the antecedents of a person are required to be accounted for while considering a regular bail petition preferred by him. 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 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 facts and circumstances of the case.

7. 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 cell-phone 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.

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

9. Ordered accordingly.

10. Nothing said hereinabove shall be construed as an expression of opinion on the merits of the case.

(SUMEET GOEL)
JUDGE

14.7.2025
Ashwani

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