



CRM-M-35002-2025 (O&M)

1

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

113/214

**CRM-45089-2025 in/and
CRM-M-35002-2025 (O&M)**

Anand Kumar

....Petitioner

V/s

State of Haryana through Advocate General Haryana

....Respondent

Date of decision: 18.11.2025**Date of Uploading : 18.11.2025****CORAM: HON'BLE MR. JUSTICE SUMEET GOEL**

Present: Mr. Vijay Sangwan, Advocate for the petitioner.

Mrs. Priyanka Sadar, Sr. DAG Hry.

SUMEET GOEL, J. (Oral)**CRM-45089-2025**

This is an application under Section 528 of BNSS, 2023 for placing on record the copy of the order dated 27.09.2024 passed by this Court.

Application is allowed as prayed for, subject to all just exceptions. Copy of the order is taken on record as Annexure P-3. Registry to paginate the paper-book accordingly.

CRM-M-35002-2025

1. Present second petition has been filed under Section 483 of the Bharatiya Nagrik Suraksha Sanhita seeking grant of regular bail to the petitioner in case bearing FIR No.171 dated 11.11.2022, registered for the offences punishable under Sections 302, 34 and 120-B of IPC at Police Station Sadar Sohna, District Gurugram.



The petitioner had earlier applied for grant of regular bail before this Court which was dismissed as withdrawn on 18.09.2024. The relevant part of said order reads as under:-

“2. After arguing for some time, when this Court was not inclined to grant the relief, learned counsel for the petitioner prays for withdrawal of the present petition, at this stage.

3. Dismissed as withdrawn, at this stage.”

Thereafter, the present petition i.e. the second petition for grant of regular bail has been preferred by the petitioner on 04.07.2025.

2. The gravamen of the FIR in question pertains to an incident in which the complainant namely Bhim Singh son of Amar Singh, resident of village Damdana, Police Station Sadar Sohna, District Gurugram, who alleged that he is an agriculturist by profession and has two brothers and three sisters, all of whom are married. He further alleged that about one year ago, his brother namely Arjun had a quarrel with Gajan son of Dhanpal, Jagat son of Dhanpal and Ishwar son of Jagat Singh regarding some dogs. Due to this previous dispute, on 10.11.2022 at around 10:14 p.m. while the complainant was at his house in Village Damdama, Virender son of Deshraj called the complainant and informed that some persons were assaulting his brother near Bhumiya Temple close to the house of Baniya. On receiving this information, the complainant immediately went to the location alongwith his maternal uncle Mukhram son of Handu and Parveen son of Hetram. On reaching, the complainant saw accused Sandeep @ Surjan, Anand (petitioner herein), Manoj @ Fuka and Pawan assaulting his brother Arjun. Accused Anand (petitioner herein) and Sandeep were armed with iron rods, accused Manoj with a wooden stick (*danda*) and accused



Pawan with a stone. All the accused were inflicting injuries on the brother of the complainant. When the complainant tried to intervene, the accused fled taking advantage of the darkness. Thereafter, the injured was taken to Government Hospital, Sohna where the doctor referred to higher medical centre i.e. Park Hospital where he was admitted. After some time, the doctor declared the injured i.e. brother of the complainant dead due to the injuries sustained. Based on these set of allegations, the instant FIR was registered and investigation ensued.

3. Learned counsel for the petitioner has iterated that as per the own prosecution case and the call detail records, prior to the alleged incident, there was an altercation between the deceased and the petitioner on the phone whereinafter the deceased has called the petitioner to meet him. Learned counsel has further iterated that only the wooden stick has been recovered from the petitioner and no specific injury has been assigned to him. The petitioner has been falsely implicated due to local village politics without any substantive evidence connecting him with the alleged offence. Learned counsel has further iterated that there exists no reliable or cogent evidence connecting the petitioner with the alleged offence. Learned counsel has contended that no incriminating material has surfaced against the petitioner. According to learned counsel, the version of the complainant is highly improbable since the petitioner bears no motive whatsoever to commit the alleged offence. Learned has further submitted that the investigation in the present case stands concluded and the challan has already been presented. Furthermore, the prosecution evidence was closed on 14.02.2025 and the matter was fixed for defence evidence. After filing



of a supplementary report against a co-accused, one co-accused has been ordered to be discharged vide order dated 01.05.2025 and charges under Sections 120-B, 302, 34 of IPC were framed afresh against the remaining accused including the petitioner. Learned counsel asserts that since a de-novo trial has commenced which is bound to take considerable time, no useful purpose would be served for continued incarceration of the petitioner as there is no likelihood of the petitioner interfering with the prosecution evidence. Learned counsel has submitted that the petitioner is in custody since 26.03.2023 and is not involved in any other case. On the strength of aforesaid submission, the grant of petition in hand is entreated for.

4. *Per contra*, learned State counsel has vehemently opposed the grant of bail to the petitioner by arguing that the allegations raised against the petitioner are serious in nature. Learned State counsel has referred to status report dated 31.10.2025 by way of affidavit of Jitender, HPS, Assistant Commissioner of Police, Sohna, Gurugram, relevant whereof reads as under:

“13. That during the course of further investigation, on 26.03.2023, accused Anand Kumar (petitioner herein) was joined in investigation and was arrested upon receipt of appropriate incriminating evidence against him. He was interrogated while being in custody and upon interrogation he suffered his disclosure statement admitting his involvement in the commission of the present crime and got demarcated the place of occurrence.

14. That further, on 08.06.2023 he suffered his amended disclosure statement, partially retracting from the earlier disclosure statement and in pursuance thereof, he got recovered a Danda used in commission of the present crime. The translated reproduction of the disclosure statement of accused Anand Kumar (petitioner herein) is being appended along with the present affidavit as ANNEXURE R5.



15. That during the course of further investigation, the Call Detail Record (CDR & CAF) of the phone numbers of the accused Anand (petitioner herein) having mobile number 9728979490 and deceased Arjun mobile number 9899297337 was obtained from the concerned service provider and statements of the witnesses were recorded.

16. That competition upon consequent of investigation, supplementary final report as mandated by the provisions of Section 173(8) of Cr.P.C was put in the Court of competent on 19.06.2023 qua jurisdiction accused Anand Kumar (petitioner herein) for the commission of offences punishable under Sections 302, 120-B, 34 of IPC. Thereafter, the petitioner Anand Kumar along with co- accused Manoj @ Tukka and Sandeep @ Surjan was charge sheeted by the Ld. Trial Court in terms of charge sheet dated 15.09.2023 for the commission of offences punishable under Sections 302, 120-B and 34 of IPC.

xx

xx

xx

xx

25. That the investigations have revealed that the petitioner Anand Kumar along with other co-accused has played an active role in commission of the present crime. The petitioner has been specifically named in the FIR and he acting in league with the other co- accused had hatched criminal conspiracy to commit murder of the deceased. The petitioner and the co-accused had consumed liquor and under the influence of intoxication, when the accused Pawan told the other accused persons that Arjun (since deceased) was not returning their money, and further he was seconded by accused Sandeep that there had been altercations between him and Arjun with regard to dogs, all the above- mentioned accused, had assaulted the deceased. The petitioner had also played an active role in the assault and he had inflicted Danda blows on person of the deceased. The Danda used by the petitioner was also recovered at his instance.

26. That the allegations against the petitioner are serious and specific. His complicity has been found in commission of a serious offence. It is the settled position of law that the nature of offence, manner of commission thereof, and the sentence it may entail post- conviction are vital parameters which are to be kept in mind which adjudicating upon the question of grant or refusal of bail. In the event of being granted the concession of bail to the petitioner, he may very well pressurize the witnesses and dissuade them from disclosing the truth and may very well flee and hence from justice circumstances there the grant are of warranting concession of regular bail to the petitioner.”



Furthermore, learned State counsel has raised submission in tandem with the aforesaid reply and has iterated that the petitioner was specifically named in the FIR and the material collected during investigation reveals that he participated in a criminal conspiracy to commit the murder of the deceased Arjun. Learned State counsel has further submitted that the gravity of the offence, being a heinous murder committed with deadly weapons, itself disentitles the petitioner from the concession of bail. Learned State counsel has submitted that the grant of bail, at this stage, would embolden the petitioner to influence or intimidate the witnesses and tamper with the evidence. In view of the nature of the allegations, the gravity of the offence and the stage of trial learned State counsel prays for the dismissal of the instant petition.

5. I have heard learned counsel for the rival parties and have perused the available record.

6. It would be apposite to refer herein to a judgment passed by this Court in ***Rafiq Khan vs. State of Haryana and another: 2024: PHHC:054064***; relevant whereof reads as under:-

9. *The paramount issue, in any plea for grant of regular bail, is the liberty of an individual. Indubitably, within our society and jurisprudence, liberty is a cherished foundational principle and has fundamental ascendancy over all other attributes of social order. Even within the framework of Constitution, this principle is made conspicuous, inter alia, in Article 21 of our Constitution that no person shall be deprived of his personal liberty except according to procedure established by law. The Cr.P.C., 1973 is one such procedural law which permits curtailment of liberty of anti-social and anti-national elements. Yet, liberty of an individual, the accused, must not transgress the rights of another individual, the victim, in terms of right to dignified everyday life without any imminent fear or threat. Additionally, the rights of the collective of individuals viz. the State/Society at large, also*



cannot be neglected. Therefore, while countenancing the facts for considering the bail, the rights of the triad of accused, victim and the State (Society at large) ought to be entailed. Ergo, while considering a bail plea, the Court ought to take into account this core concept(s).

9.1 *An analytical perusal of Cr.P.C. explicates that this statute does not contain any provision relatable to maintainability or otherwise of second/successive bail petitions, including one(s) seeking regular bail. Once there is no statutory prohibition provided for in law, a Court is not logically empowered to import into it such prohibitions, especially in case of codified and legislated law. It is trite law that Courts ought not to read a provision in codified law which has not been specifically provided for by the legislature especially when such reading results into deprivation of rights. The bar contained in Section 362 of Cr.P.C. can, by no stretch of legal imagination, be said to be barring the filing of second/successive regular bail petition.*

9.2 *The Hon'ble Supreme Court in case of **Babu Singh** case (supra) has held that rejection of a bail petition does not, by itself, forbid a Court from considering another one, later in point of time. Similar is the ratio decidendi of the judgment of Hon'ble Supreme Court in **Kalyan Chandra Sarkar** (supra). Ergo, it can be safely inferred that the decision of a Court qua regular bail petition is essentially an interlocutory order and hence the postulation of res judicata does not apply to its realm.*

9.3 *The issue that next craves attention is as to what are the factors/parameters for consideration of second/successive regular bail petition(s).*

9.4. *The concordant legal position is that the essential pre-requisite for consideration of second/successive regular petition is the material/substantial change in circumstances and factors of alike nature. Indubitably, the further period of incarceration suffered by the petitioner-accused after rejection/withdrawal of first/earlier plea for bail, pace of trial, the witnesses turning hostile or not supporting prosecution case and changed medical condition(s) of accused would be pertinent factor(s). It goes without saying that these factors are only illustrative in nature and cannot by any means be said to be exhaustive.*

9.5 *No rigid or universal criterion can possibly be delineated to conclusively govern the exercise of judicial discretion, in determining, as to what would constitute as the above stated substantial change in circumstances. Factual flexibility, one additional*



or different fact, may cause a sea of difference. There is no gainsaying that each case has its own distinct and unique facts and, hence, exercise of such judicial power is best left to the judicial discretion of a Court, in accordance with the settled norms of our jurisprudence.

10. *As an epilogue to the above discussion, the following principles emerge:*

I Second/successive regular bail petition(s) filed is maintainable in law & hence such petition ought not to be rejected solely on the ground of maintainability thereof.

II. Such second/successive regular bail petition(s) is maintainable whether earlier petition was dismissed as withdrawn/dismissed as not pressed/dismissed for non-prosecution or earlier petition was dismissed on merits.

III For the second/successive regular bail petition(s) to succeed, the petitioner/applicant shall be essentially/pertinently required to show substantial change in circumstances and showing of a mere superficial or ostensible change would not suffice. The metaphoric expression of seeking second/successive bail plea(s) ought not be abstracted into literal iterations of petition(s) without substantial, effective and consequential change in circumstances.

IV No exhaustive guidelines can possibly be laid down as to what would constitute substantial change in circumstances as every case has its own unique facts/circumstance. Making such an attempt is nothing but an utopian endeavour. Ergo, this issue is best left to the judicial wisdom and discretion of the Court dealing with such second/successive regular bail petition(s).

V In case a Court chooses to grant second/successive regular bail petition(s), cogent and lucid reasons are pertinently required to be recorded for granting such plea despite such a plea being second/successive petition(s). In other words, the cause for a Court having successfully countenanced/entertained such second/successive petition(s) ought to be readily and clearly decipherable from the said order passed.”

7. The contentions raised by learned counsel for the petitioner were available to the petitioner at the time when the first petition for regular bail was dismissed. Thus, as such no fresh substantial change in the



circumstances has been brought forward which would indicate that the petitioner is entitled to maintain his second petition for grant of regular bail. For maintaining a second petition for bail, it is *sine-qua-non* to bring forth change in circumstances. This fact assumes more importance when no undue delay in trial has been brought forth. The first regular bail petition filed by the petitioner was dismissed as withdrawn on 27.09.2024 and, indubitably, more than 01 year has passed since then. However, since the first regular bail petition was dismissed as withdrawn and there was no adjudication on merits thereof, this Court deems it appropriate to decide the instant one on merits thereof as well.

8. The grant of bail falls within the discretionary domain of the Court; however, such discretion must be exercised in a judicious and principled manner, ensuring it aligns with established legal precedents and the interests of justice. While considering a bail application, the court must evaluate factors such as the existence of *prima facie* evidence implicating the accused, the nature and gravity of the alleged offence, and the severity of the likely sentence upon conviction. The Court must also assess the likelihood of the accused absconding or evading the due process of law, the probability of the offence being repeated and any reasonable apprehension of the accused tampering with evidence or influencing witnesses. Additionally, the character, antecedents, financial means, societal standing, and overall conduct of the accused play a crucial role. Furthermore, the Court must weigh the potential danger of bail undermining the administration of justice or thwarting its due course. A profitable reference in this regard is made to the judgment passed by the Hon'ble Supreme Court



titled as ***State through C.B.I. vs. Amaramani Tripathi, 2005 AIR Supreme Court 3490***, relevant whereof reads as under:

14. *It is well settled that the matters to be considered in an application for bail are (i) whether there is any prima facie or reasonable ground to believe that the accused had committed the offence; (ii) nature and gravity of the charge; (iii) severity of the punishment in the event of conviction; (iv) danger of accused absconding or fleeing if released on bail; (v) character, behaviour, means, position and standing of the accused; (vi) likelihood of the offence being repeated; (vii) reasonable apprehension of the witnesses being tampered with; and (viii) danger, of course, of justice being thwarted by grant of bail (see **Prahlad Singh Bhati v. NCT, Delhi, 2001(2) RCR (Criminal) 377 (SC) :2001(4) SCC 280 and Gurcharan Singh v. State (Delhi Administration), AIR 1978 Supreme Court 179**). While a vague allegation that accused may tamper with the evidence or witnesses may not be a ground to refuse bail, if the accused is of such character that his mere presence at large would intimidate the witnesses or if there is material to show that he will use his liberty to subvert justice or tamper with the evidence, then bail will be refused. We may also refer to the following principles relating to grant or refusal of bail stated in **Kalyan Chandra Sarkar v. Rajesh Ranjan, 2004(2) RCR (Criminal) 254 (SC) :2004(7) SCC 528** : "The law in regard to grant or refusal of bail is very well settled. The court granting bail should exercise its discretion in a judicious manner and not as a matter of course. Though at the stage of granting bail a detailed examination of evidence and elaborate documentation of the merit of the case need not be undertaken, there is a need to indicate in such orders reasons for prima facie concluding why bail was being granted particularly where the accused is charged of having committed a serious offence. Any order devoid of such reasons would suffer from non-application of mind. It is also necessary for the court granting bail to consider among other circumstances, the following factors also before granting bail; they are:*

- a. The nature of accusation and the severity of punishment in case of conviction and the nature of supporting evidence.*
- b. Reasonable apprehension of tampering with the witness or apprehension of threat to the complainant.*
- c. Prima facie satisfaction of the court in support of the charge. (see **Ram Govind Upadhyay v. Sudarshan Singh, 2002(2) RCR (Criminal) 250 (SC) : 2002(3) SCC 598 and Puran v. Ram Bilas, 2001(2) RCR (Criminal) 801 (SC) : 2001(6) SCC 338**."*



This Court also in specific terms held that :

*"the condition laid down under section 437(1)(i) is sine qua non for granting bail even under section 439 of the Code. In the impugned order it is noticed that the High **Court** has given the period of incarceration already undergone by the accused and the unlikelihood of trial concluding in the near future as grounds sufficient to enlarge the accused on bail, in spite of the fact that the accused stands charged of offences punishable with life imprisonment or even death penalty. In such cases, in our opinion, the mere fact that the accused has undergone certain period of incarceration (three years in this case) by itself would not entitle the accused to being enlarged on bail, nor the fact that the trial is not likely to be concluded in the near future either by itself or coupled with the period of incarceration would be sufficient for enlarging the appellant on bail when the gravity of the offence alleged is severe and there are allegations of tampering with the witnesses by the accused during the period he was on bail."*

*In **Panchanan Mishra v. Digambar Mishra, 2005(1) Apex Criminal 319 : 2005(1) RCR(Criminal) 712 (SC) : 2005(3) SCC 143**, this Court observed :*

"The object underlying the cancellation of bail is to protect the fair trial and secure justice being done to the society by preventing the accused who is set at liberty by the bail order from tampering with the evidence in the heinous crime..... It hardly requires to be stated that once a person is released on bail in serious criminal cases where the punishment is quite stringent and deterrent, the accused in order to get away from the clutches of the same indulge in various activities like tampering with the prosecution witnesses, threatening the family members of the deceased victim and also create problems of law and order situation."

9. Indubitably, the allegations against the petitioner are specific and direct. The FIR as well as the investigation reveals that the petitioner was present at the scene of occurrence, has actively participated in the assault and has allegedly inflicted *danda* blows upon the deceased. The weapon of offence has been recovered at his instance thereby providing a tangible link connecting him with the crime. The petitioner is accused of committing a capital offence and is facing trial therein. At the stage of deciding the bail, the Court has to consider the nature and gravity of the



offence, the manner of commission and the severity of punishment. The fact on record *prima facie* disclosed that all the accused including the petitioner armed with deadly weapons, launched a brutal attack on the deceased which resulted in his death.

10. The allegations leveled against the petitioner are grave and specific which clearly indicate his active participation in the commission of the crime. In the considered opinion of this Court the very magnitude and seriousness of the crime, disentitle the petitioner to the discretionary relief of bail. The plea of the petitioner that trial has recommence does not *ipso facto* entitle him to bail especially in a case involving serious allegations of homicide. In the considered opinion of this Court, at this stage, no accentuating circumstances have been made which may *prima facie* constitute a compelling ground for the grant of regular bail to the petitioner, especially in light of the gravity of the allegations and the evidence on record. It is also to be borne in mind that offences of this nature strike at the very root of public order and societal conscience. Granting bail in such cases would not only undermine the gravity of the offence but may also embolden the accused. Further, there exists a strong likelihood that if enlarged on bail the petitioner may abscond to evade trial or attempt to influence, threaten, or intimidate prosecution witnesses particularly when several material witnesses are yet to be examined. The mere fact of prolonged custody cannot, in itself, constitute a ground for bail in cases of such grave and heinous character.

11. Considering the overall circumstances, the nature and seriousness of the accusations, the evidence on record, and the possibility of



tampering with prosecution witnesses, this Court finds no merit in the present petition. Accordingly, this Court is of the considered opinion that the petitioner does not deserve the concession of regular bail.

12. In view of the seriousness of the allegations coupled with the nature of evidence, this Court is of the considered opinion that the petitioner is not entitled to the concession of regular bail. Accordingly, the petition is, thus, devoid of merits and is hereby dismissed.

13. Any observations made and/or submissions noted hereinabove shall not have any effect on merits of the case and the investigating agency as also the trial Court shall proceed further, in accordance with law, without being influenced with this order.

14. Pending application(s), if any, shall also stand disposed of.

(SUMEET GOEL)
JUDGE

November 18, 2025
Ajay

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