



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

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CRM-M No.38231 of 2025 (O & M)
Date of decision : 18.8.2025

Brij Pal alias Birju**.....Petitioner****Versus****State of Haryana****.....Respondent****CORAM: HON'BLE MR. JUSTICE SUMEET GOEL**

Present: Mr. P.S. Ahluwalia, Advocate, for the petitioner

Mr. Gurmeet Singh, AAG, Haryana

SUMEET GOEL, J. (ORAL)

1. Present 2nd 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.270 dated 14.7.2021, under Sections 302, 307, 323, 324, 326, 452, 506, 148, 149 and 34 of the IPC (Sections 148 and 149 of IPC deleted later on), registered at Police Station Madlauda, District Panipat.
2. The case set up in the FIR in question (as set out in the present petition by the petitioner) is as follows:-

'Copy of writing To, The SHO, P.S. Matlauda, Panipat. Sir, it is submitted that I, Yashpal S/o Sh. Dilawar Singh, caste Rajput, age 51 years is resident of Village Dadlana. Today on 13/07/2021 from 7:30 to 8:00 I was at my house. My son Vikrant alias Vicky who work in Panipat Refinery had given vehicles and house on rent in Shilpi Engineering Company. Due to bad payment practices of the company we had left the company. An



account of Rs. 4-5 lakhs was pending with the company. When we had repeatedly demanded money from the company then the company, who had kept few untoward elements of the village with them, when my son Vikrant had demanded money from the company on 10/6/2021 then Birju S/o Kalandar Singh, caste Rajput and Bunty alias Sahil S/o Pawan residents of Village Dadlana, had come in between our financial give and take on behalf of the company. Due to pending give and take of money between us the panchayat had taken place 2-3 times at Birju's house. In this Panchayat, the company's officer Valbu, Rajan, Atul and Maaji had said that we will give your money in one week. The aforesaid persons had later on started threatening me and said that if you again demanded money from the company then we will kill you. After around 1 month, today on 13/7/2021 between around 10:00 to 11:00 a.m. my son Vikrant had gone to the refinery for demanding money from the company, when the aforesaid officers of the company had threatened my son and had made him run away from there without giving money. Today on 13/7/2021 in the evening between around 7:30 to 8:00 p.m. when I and my son and my brother in law Sunder were present in our house then at that time Birju S/o Kalandar, Bunty alias Sahil S/o Pawan, Pawan S/o Pal, Kushal Pal S/o Kalandar, Randhir S/o Pal, Rohit S/o Birju, Amit alias Moni S/o Kushli, Love, Kush, Rahul sons of Randhir, Bablu S/o Pal, Lakhwinder alias Joni S/o Kulwinder R/o Salwan and 5-6 other unknown persons equipped with sword and knife had come inside my house and had exhorted that they will teach lesson to Vikrant and his family for demanding money from the company, will kill everyone. Till the time we handle it, Birju and Bunty alias Sahil had made a direct attack with his hand held knife on my son Vikrant. When my brother in law and I tried to get him free then Rohit S/o Birju and Love, Kush and Rahul sons of Ranbir had also made a direct attack of knife on Sunder. Ranbir and Pawan had started hitting me with legs, fists. On hearing noise of fight my taya's son Sanjiv and Joni S/o Sukhpal had came inside my house, on which all of them had made direct attack with their hand held knife and swords on Sanjiv and Joni, Bablu alias Ranjit S/o Pal was saying to them to kill them all, rest I will handle and while saying this he had made direct attack with his hand held knife in Sanjiv's stomach. That aforesaid attack/beating has been done one being said upon by the officers Rajan, Velbu, Maaji, Atul and Hariharan working in Shilpi Engineering Company. We, taking along



the injured had reached Prem Hospital, Panipat, on reaching where the doctor had declared Sanjiv S/o Khila Ram dead and had admitted my son Vikrant, brother in law Sunder and nephew Jony, who had incurred grievous injuries. That at the time of fight Balbir S/o Khila Ram caste Rajput and Deepak S/o Ashok Kumar, caste Rajput and with the help of other persons of village, they were got freed. All the accused along with their weapons had sped away from the scene of crime. It is requested to you that legal action may be taken against all the aforesaid accused. Mobile 94116000240 SD/- Yashpal Date 13.07.2021.'

3. Learned counsel for the petitioner has argued that the petitioner is in custody since 21.7.2021. Learned counsel has further argued that, assuming *arguendo*, the prosecution version is taken to be correct, the petitioner is primarily accused of causing injury to one eye-witness and further there is omnibus allegations of him having attacked the deceased but there is no specific attribution to the petitioner. Learned counsel has further argued that the petitioner has suffered incarceration for more than 4 years. 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 14.8.2025 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 21.7.2021 wherein after investigation was carried out and challan stands presented on 28.10.2021. Total 29 prosecution witnesses have been cited out of which 17 have been



examined and 3 have been given up. It is thus indubitable that culmination of trial will take its own time. The rival contentions raised by learned counsel 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. It would be apposite to refer herein to a judgment passed by the Hon'ble Supreme Court in ***Criminal Appeal No.2787 of 2024*** titled as ***Javed Gulam Nabi Shaikh vs. State of Maharashtra and another***, decided on 03.07.2024; relevant whereof reads as under:-

“19 If the State or any prosecuting agency including the court concerned has no wherewithal to provide or protect the fundamental right of an accused to have a speedy trial as enshrined under Article 21 of the Constitution then the State or any other prosecuting agency should not oppose the plea for bail on the ground that the crime committed is serious. Article 21 of the Constitution applies irrespective of the nature of the crime.

20. We may hasten to add that the petitioner is still an accused; not a convict. The over-arching postulate of criminal jurisprudence that an accused is presumed to be innocent until proven guilty cannot be brushed aside lightly. howsoever stringent the penal law may be.

21. We are convinced that the manner in which the prosecuting agency as well as the Court have proceeded, the right of the accused to have a speedy trial could be said to have been infringed thereby violating Article 21 of the Constitution.”

6.1 Furthermore, the petition in hand is the second attempt on part



of the petitioner for grant of regular bail. His first petition was dismissed as withdrawn on 6.3.2024. Keeping in view, the extended custody of the petitioner and the pace of the trial since the withdrawal of the last bail petition, this Court is inclined to affirmatively considered the petition in hand.

6.2 As per custody certificate dated 14.8.2025 filed by learned State counsel, the petitioner has already suffered incarceration for a period of 4 years and 19 days. As per the said custody certificate, the petitioner is stated to be involved in one more FIR registered under the provisions of IPC and Immoral Traffic (Prevention) Act, 1956. 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.

11. Pending miscellaneous application(s), if any, stand disposed of accordingly.

(SUMEET GOEL)
JUDGE

18.8.2025
Ashwani

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