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2025:PHHC:145870



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IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

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Date of decision: October 27, 2025

Amit

....Petitioner

Versus

State of Haryana

....Respondent

CORAM: HON'BLE MR. JUSTICE SUMEET GOEL

Present:- Mr. Parminder Singh, Advocate for the petitioner.

Mr. Gurmeet Singh, AAG Haryana.

SUMEET GOEL, J. (ORAL)

Present second 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 bearing FIR No.289 dated 02.07.2024, registered for the offences punishable under Sections 287, 351(2), 61(2), 238(c), 111(3) of the Bharatiya Nyaya Sanhita, 2023 (for short 'BNS') and Section 25 of the Arms Act, 1959, at Police Station Nissing, District Karnal.

2. The gravamen of the FIR in question is that complainant, namely, Rajesh Kumar alleged that on 01.07.2024, while he was working at his shop, some unidentified persons arrived there on a Splendor motorcycle. They opened fire and fled from the spot immediately afterward. He further stated that all three assailants had covered their faces with black cloths and attacked him with the intention to kill; however, he escaped unhurt as he was

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seated inside the shop at the time of the incident. The complainant also alleged that one person, namely Karan Mohdi, presently residing in Australia, was involved in the incident and has been spying on him. The said attack was allegedly carried out under the instructions of Monu and Pankaj. He was informed about the firing by nearby shopkeepers, who witnessed the incident and confirmed that gunfire was directed at him, as empty cartridges were later found outside his shop.

3. Learned counsel for the petitioner has iterated that the petitioner is in custody since 08.07.2024. Learned counsel has iterated that the petitioner has been falsely implicated into the FIR in question. Learned counsel has further argued that prime prosecution witness, namely, FIR/complainant-Rajesh Kumar already stand examined. Learned counsel has also argued that there is no tangible material available against the petitioner so as to connect him to the alleged crime in question. Learned counsel has further argued that the FIR/complainant-Rajesh Kuamr, even when examined as prosecution witness, has not been able to clearly identify the present petition. Learned counsel has urged that the petitioner has suffered incarceration for more than 01 year and 03 months, and is not shown to be involved in any other FIR(s). Thus, regular bail is prayed for.

4. Learned State counsel has opposed the present petition by arguing that the allegations raised against the petitioner 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 the custody certificate dated 24.10.2025, in the Court today, which is taken on record.

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

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6. The petitioner was arrested on 08.07.2024 whereinafter investigation was carried out and challan has been presented on 04.10.2024. Total 19 prosecution witnesses have been cited, out of which, 03 have been examined till date. It is not in dispute that prime prosecution witness, namely, Rajesh Kumar (FIR-complainant) has already been examined. The rival contentions raised at 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.

6.1. At this juncture, it would be apposite to refer herein a judgment of the Hon'ble Supreme Court in *Javed Gulam Nabi Shaikh vs. State of Maharashtra and anothers, 2024(3) RCR (Criminal) 494*, which reads thus:

“18. Criminals are not born out but made. The human potential in everyone is good and so, never write off any criminal as beyond redemption. This humanist fundamental is often missed when dealing with delinquents, juvenile and adult. Indeed, every saint has a past and every sinner a future. When a crime is committed, a variety of factors is responsible for making the offender commit the crime. Those factors may be social and economic, may be, the result of value erosion or parental neglect; may be, because of the stress of circumstances, or the manifestation of temptations in a milieu of affluence contrasted with indigence or other privations.

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

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speedy trial could be said to have been infringed thereby violating Article 21 of the Constitution.”

6.2. As per custody certificate dated 24.10.2025 filed by learned State counsel, the petitioner has already suffered incarceration for a period of 01 year, 03 months and 14 days, & is not shown to be involved in the other FIR(s).

6.3. Indubitably, the present petition is the second attempt by the petitioner to secure regular bail. The last bail plea preferred by the petitioner was dismissed as withdrawn on 14.07.2025. However, keeping in view the extended custody of the petitioner for more than 03 months and there being no substantial progress in the trial, this Court is inclined to affirmatively consider the instant plea for bail. A profitable reference, in this regard, can be made to a judgment of this Court passed in ***CRA-S-2332-2023*** titled as ***Rafiq Khan versus State of Haryana and another***, relevant whereof reads as under:

“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).

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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.”

Suffice to say, further detention of the petitioner as an undertrial is not warranted in the factual milieu 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 cellphone 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.

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

11. Since the main case has been decided, pending miscellaneous application, if any, shall also stands disposed off.

(SUMEET GOEL)
JUDGE

October 27, 2025
mahavir

Whether speaking/reasoned: Yes/No

Whether reportable: Yes/No