



In the High Court of Punjab and Haryana, at Chandigarh

Criminal Misc. No. M-42238 of 2025

Reserved On: 06.11.2025
Pronounced On: 07.11.2025

Rohit alias Ghaggi

... Petitioner(s)

Versus

State of Punjab

... Respondent(s)

CORAM: Hon'ble Mr. Justice Surya Partap Singh.

Present: Mr. Ravi Dangi, Advocate
for Mr. Subhash Kumar, Advocate
for the petitioner(s).

Mr. Rohit Bansal, Senior Deputy Advocate General,
Punjab, for the respondent.

Surya Partap Singh, J.

1. For the commission of offence punishable under Sections 115(2), 118(1), 126(2), 190, 191(3), 118(2), 304(2), 238 and 311 of the Bharatiya Nyaya Sanhita, 2023, hereinafter being referred to as “BNS” only, the FIR No. 250 dated 22.10.2024 has been lodged in Police Station Rama Mandi, District Jalandhar, Punjab.

2. During the course of investigation of above mentioned case, the petitioner was arrested on 22.11.2024. The petitioner is in custody since then, and therefore, for the concession of bail he has approached this Court, by virtue of present petition under Section 483 of the Bharatiya Nagarik Suraksha Sanhita, 2023, hereinafter being referred to as “BNSS” only.

3. Briefly stating the facts emerging from record are that the above

mentioned FIR came into being on the statement of Yashpal who alleged that on 19.10.2024 at about 7.00 P.M., when he was going home on his motorcycle, six/seven unknown persons intercepted him, snatched his bag containing keys of his house and cash ₹50,000/-. It was also alleged by the above named complainant that one of the above mentioned assailants, namely Sherry Bains had injured him twice with the help of kirpan on his right elbow, and Nihang Singh with the help of kirpan on his forehead. According to complainant, other assailants also inflicted injuries on his person with the help of kirpan, iron rods, and that in the above mentioned incident, he had suffered injuries. As per the complainant, he was also threatened to be killed by the assailants.

4. Heard.

5. It has been contended by learned counsel for the petitioner that the petitioner has been falsely implicated in the present case, and that he has no nexus, whatsoever, with the commission of offence. As per learned counsel for the petitioner, the petitioner has already suffered a long incarceration for being in custody for a period of 11 months & 15 days, and that there is no significant progress in the trial. It has also been argued by learned counsel for the petitioner that nothing is left to be recovered from the possession of the petitioner, and that release of petitioner on bail is not likely to cause any prejudice to the prosecution case.

6. In addition to above, the learned counsel for the petitioner has also argued that the contents of FIR itself shows that in the initial part of his statement, the complainant had mentioned that attack was launched by six/seven unknown persons, but later on, out of nowhere, he mentioned the

name of petitioner. It has also been urged by learned counsel for the petitioner that detention of petitioner in judicial lock-up is not likely to serve any purpose.

7. While controverting the above mentioned arguments, the learned State counsel has argued that the offence committed by the petitioner is of serious nature, and that the petitioner has criminal antecedents as he is a hard-core criminal, who, as per custody certificate, has already been convicted for the commission of offence punishable under Section 21 of the Narcotic Drugs and Psychotropic Substances Act, 1985. As per learned State counsel in addition to above the petitioner is facing prosecution in various cases under Sections 454, 380 of IPC and 309(4) of BNS also. According to learned State counsel, if released on bail, the petitioner is likely to influence the witnesses.

8. The record has been perused carefully.

9. A careful perusal of record shows that in the present case, following are the factors which are required to be taken into consideration before the arriving at any decision:-

- i) that the petitioner is already in custody for a period of 11 months and 15 days;
- ii) that nothing is left to be recovered from the possession of the petitioner;
- iii) that the injured has already been discharged from the hospital;
- iv) that the trial is not likely to be concluded in near future;
- v) that the detention of petitioner in judicial lock-up is not

likely to serve any purpose;

- vi) that the petitioner, although, faced prosecution in three other cases, but in one case under the NDPS Act he has been convicted and in two cases, the trial is in progress; and
- vi) that the nature of offence pertaining to the present case is altogether different from the nature of other cases;
- vii) that there is nothing on record to show that if released on bail, the petitioner will tamper with the prosecution evidence or influence the witnesses; and
- viii) that there is nothing on record to show that if released on bail, the petitioner will not participate/cooperate in the trial.

10. With regard to the legal aspect involved in the instant case, it is relevant to mention that the Hon'ble Supreme Court in the case of "***Dataram versus State of Uttar Pradesh and another***", 2018(2) R.C.R. (Criminal) 131, has observed that "*a fundamental postulate of criminal jurisprudence is the presumption of innocence, meaning thereby that a person is believed to be innocent until found guilty. However, there are instances in our criminal law where a reverse onus has been placed on an accused with regard to some specific offences but that is another matter and does not detract from the fundamental postulate in respect of other offences. Yet another important facet of our criminal jurisprudence is that the grant of bail is the general rule and putting a person in jail or in a prison or in a correction home (whichever expression one may wish to use) is an*

exception. Unfortunately, some of these basic principles appear to have been lost sight of with the result that more and more persons are being incarcerated and for longer periods. This does not do any good to our criminal jurisprudence or to our society. There is no doubt that the grant or denial of bail is entirely the discretion of the judge considering a case but even so, the exercise of judicial discretion has been circumscribed by a large number of decisions rendered by this Court and by every High Court in the country. Yet, occasionally there is a necessity to introspect whether denying bail to an accused person is the right thing to do on the facts and in the circumstances of a case.”

11. The principles laid down by the Hon’ble the Supreme Court of India in the case of **‘Satender Kumar Antil Vs. Central Bureau of Investigation and Another’**, 2022 LiveLaw (SC) 577, are also relevant in this case. In the above mentioned case, it has been observed that *“the rate of conviction in criminal cases in India is abysmally low. It appears to us that this factor weighs on the mind of the Court while deciding the bail applications in a negative sense. Courts tend to think that the possibility of a conviction being nearer to rarity, bail applications will have to be decided strictly, contrary to legal principles. We cannot mix up consideration of a bail application, which is not punitive in nature with that of a possible adjudication by way of trial. On the contrary, an ultimate acquittal with continued custody would be a case of grave injustice.”*

12. Recently, in the case of **‘Tapas Kumar Palit Vs. State of Chhattisgarh’**, 2022 INSC 222, the Hon’ble Supreme Court of India has observed that *“if an accused is to get a final verdict after incarceration of six*

to seven years in jail as an undertrial prisoner, then, definitely, it could be said that his right to have a speedy trial under Article 21 of the Constitution has been infringed.” It has also been observed by the Hon’ble Supreme Court of India in the above mentioned case that *“delays are bad for the accused and extremely bad for the victims, for Indian society and for the credibility of our justice system, which is valued. Judges are the masters of their Courtrooms and the Criminal Procedure Code provides many tools for the Judges to use in order to ensure that cases proceed efficiently.”*

13. Therefore, to elucidate further, this Court is conscious of the basic and fundamental principle of law that right to speedy trial is a part of reasonable, fair and just procedure enshrined under Article 21 of the Constitution of India. This constitutional right cannot be denied to the accused as mandated by Hon’ble Apex court in ***“Balwinder Singh versus State of Punjab and Another”, SLP (Crl.) No.8523/2024.***

14. If the cumulative effect of all the above mentioned factors, involved in the instant case, is taken into consideration, it leads to a conclusion that the petitioner is entitled for the benefit of bail, and that the present petition deserves to be allowed.

15. Accordingly, without commenting anything on the merits of the case, the present petition is hereby allowed. The petitioner is hereby ordered to be released on bail on his furnishing personal bond and surety bond(s) to the satisfaction of learned trial Court, subject to the following conditions:-

- a) that the petitioner shall not directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of the case, so as to dissuade

him to disclose such facts to the Court or to any other authority;

- b) that the petitioner shall at the time of execution of bond, furnish the address to the Court concerned and shall notify the change in address to the trial Court, till the conclusion of trial; and
- c) that the petitioner shall not leave India without prior permission of the trial Court.

16. In case, the petitioner violates any of the conditions mentioned above, it shall be viewed seriously and the concession of bail granted to him shall be liable to be cancelled and the prosecution shall be at liberty to move an application in this regard.

17. It is, however, made clear that any observation made here-in-above is only for the purpose of deciding the present petition and the same shall have no bearing on the merits of the case.

(Surya Partap Singh)
Judge

November 07, 2025
“DK”

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