



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

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CRM-M-42092-2025

Date of decision: 10th November, 2025

Gurpreet Kumar @ Gopi

...Petitioner

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MRS. JUSTICE MANISHA BATRA

Present: Mr. Lakhwinder Singh, Advocate for the petitioner.

Ms. Sakshi Bakshi, Assistant Advocate General, Punjab.

MANISHA BATRA, J (ORAL):-

The present petition has been filed under Section 483 of the Bharatiya Nagarik Suraksha Sanhita, 2023 (for short 'BNSS') by the petitioner seeking grant of regular bail in case bearing FIR No. 166 dated 06.05.2020 registered under Sections 323, 341, 326, 307, 148, 149, 120-B and 188 of IPC (Section 302 of IPC added later on) at Police Station City Phagwara, District Kapurthala.

2. The aforementioned FIR was registered on the basis of the statement recorded by the complainant Joginder Pal, alleging that he used to do paint work in private houses. On the night of 05.05.2020, after doing his work, he was returning home along with his friend Rampal @ Samma. When they were intercepted by 8-9 persons who were armed with weapons in the street. They made an exhortation to catch hold of the complainant and his companion and to kill them. They encircled the complainant and Rampal



and opened an attack upon them. The petitioner was one amongst them and all of them were identified by the complainant. A blow with a sword was given by the petitioner on the right wrist of the complainant. The assailants had also caused injuries to his friend Rampal and himself and then they fled away. They were taken to the hospital for treatment. After registration of the FIR, investigation proceedings were initiated. The victim Rampal succumbed to his injuries and died on 11.05.2020. The petitioner and co-accused Harpreet Kumar @ Happy, Rajwinder Singh @ Bindu and Manjit Kumar were arrested on the same day. They were interrogated and suffered disclosure statements admitting their involvement in the crime. The co-accused were also arrested. Investigation now stands concluded.

3. It is argued by learned counsel for the petitioner that he has been falsely implicated in this case. No specific role has been attributed to him. There are inconsistencies in the prosecution case, since as per the FIR, he was holding a *khanda*, but during investigation, it has been mentioned that he had struck a blow with a *kirpan* on the wrist of the complainant. He is in custody since long. His further incarceration would not serve any useful purpose. The trial will take considerable time to conclude. The co-accused, Harpreet Kumar @ Happy and Jaswinder, have already been extended the benefit of bail. On the ground of parity, the petitioner too deserves to be given the same benefit. No specific injury has been attributed to him on the person of the victim. It is, therefore, urged that he deserves to be released on bail.

4. *Per contra*, learned State counsel has argued that the allegations against the petitioner are serious in nature, as being a member of an unlawful



assembly, he intercepted the victims and caused injuries to both of them. As the injury on the person of victim-Rampal proved fatal. The allegations show the vicarious liability of the petitioner. It is, therefore, urged that he does not deserve to be extended the benefit of bail.

5. This Court has heard the arguments advanced by both sides.

6. The petitioner is alleged to have formed membership of an unlawful assembly along with his co-accused and, in prosecution of the common object thereof, is alleged to have caused injuries to the complainant and the deceased Rampal. Injuries No. 4, 5, 6, and 7 on the person of the deceased have been attributed to the petitioner. He is also stated to have caused four injuries on the person of the complainant. He was, thus, an active participant in the crime. The petitioner has also been linked to the acts attributed to him with the aid of Section 149 of IPC which has following three ingredients:-

1. There must be an unlawful assembly;
2. Commission of an offence may be by any member of the unlawful assembly; and
3. Such offence must have been committed in prosecution of the common object of the assembly, or must be such as the members of the assembly knew to be likely to be committed.

7. From a perusal of the above ingredients, it is apparent that even mere presence in the unlawful assembly but with an active mind to achieve the common object, makes a person vicariously liable for the acts of the



unlawful assembly. Under Section 149 of IPC, the liability of the other members, for the offence committed during the continuance of the occurrence rests upon the fact whether the other members knew beforehand that the offence actually committed was likely to be committed in prosecution of the common object. Such knowledge may reasonably be collected from the nature of the assembly, arms, or behaviour at or before the scene of action. The act of the petitioner prima facie show his common object with other members of the assembly to assail the victim. The allegations against the petitioner are serious in nature as he along with the co-accused stands accused of a heinous crime punishable with capital punishment or life imprisonment. While length of incarceration is a factor that weighs with the Court in considering bail, it cannot overshadow the seriousness of the accusation of murder under Section 302 IPC. It is well-settled proposition of law that grant of bail is a discretionary relief to be granted or denied based on specific facts and circumstance of each case and there cannot be any exhaustive parameters set out for considering the application for grant of bail. The factors such as nature of accusations, severity of punishment if the accusations entail a conviction and nature of evidence in support of accusations are to be seen. That apart, reasonable apprehension of tampering with evidence or threatening the complainant is also to be weighed. Frivolity of prosecution should always be considered, and it is only the element of genuineness that has to be considered in the matter of grant of bail.

8. In light of the foregoing legal principles, and having regard to



the applicant's role in the incident, the recovery of the weapon of offence at his instance, and the reasonable apprehension of his absconding or tampering with evidence, this Court finds no compelling ground to grant bail to the petitioner. Accordingly, the petition is dismissed.

9. It is clarified that any observation made in this order is only for deciding this petition and shall not influence the outcome of the trial and also not be taken as an expression of opinion on merits.

10. Since the main petition has been dismissed, pending application, if any, is rendered infructuous.

[MANISHA BATRA]
JUDGE

10th November, 2025

Parveen Sharma

1. *Whether speaking/ reasoned*
2. *Whether reportable*

: *Yes / No*
: *Yes / No*