

**CRM-M-47407-2024 (O&M)****1****213****IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH****CRM-M-47407-2024 (O&M)****Date of Decision: 09.07.2025****SAHIL****...PETITIONER****Versus****STATE OF HARYANA****...RESPONDENT****CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR**

Present: Mr. Sunil Hooda, Advocate
for the petitioner.

Mr. Vikas Bhardwaj, AAG Haryana.

*********Harpreet Singh Brar, J. (Oral)**

1. This is the first petition filed under Section 483 of Bhartiya Nagrik Suraksha Sanhita, 2023 (for short 'BNSS') for grant of regular bail to the petitioner in case bearing FIR No. 312 dated 02.12.2021 registered under Sections 307, 379-B, 341 and 120-B of Indian Penal Code (hereinafter to be referred as 'IPC') and Section 25 of Arms Act at Police Station Bahu Akbarpur, District Rohtak.

2. As per the prosecution case, on 01.12.2021, ASI Rakesh Kumar and two other police officials were on patrolling duty. At that time, an information was received in control Room, Rohtak that the newly a wed at Village Bhali Anandpur had been shot. On this information, ASI Rakesh Kumar, EHC Sandeep and Ct. Parveen reached at the place of occurrence and the injured girl had already been sent to hospital and police proceedings were initiated. The injured namely Tanishka was undergoing surgery, as per doctor's opinion. Her husband Mohan moved a complaint stating that he is resident of village Bhali Anandpur. He got married with Tanishka daughter of Om Parkash, resident of Beri Road, Sampla on 01.12.2021. After completion of marriage programme, he along with his newly wedded wife, his brother Sunil and brother-in-law Ujwal

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were going to village in the car bearing registration No. HR-12AL and when they reached near Shiv Mandir at about 11.30 P.M., three boys came in one Innova car and stopped the same in front of their car. The innova car was bearing registration no. HR-69-A-6848. Two boys came out of Innova car along with pistols, they snatched the keys of the car. One of the boy came and shot with gun upon his wife, the other boy also shot his wife. They also fired in air. They all ran away in Innova car and snatched the chain of his brother Sunil. His wife has been admitted in PGIMS, Rohtak. He requested to take legal action against him. On the basis of aforesaid allegations, FIR(supra) was lodged.

3. Learned counsel for the petitioner *inter alia* contends that petitioner has been falsely implicated in the present case. Present petition has been filed on account of delay in conclusion of trial as the petitioner has suffered incarceration of more than 03 years and 08 months and till date, the prosecution has only examined 05 prosecution witnesses out of total 35 PWs. Delay in conclusion of trial cannot be attributable to the petitioner, as he is confined in judicial custody and the said delay would certainly suffocate the right of speedy trial granted to the petitioner under Article 21 of Constitution of India. The failure of the prosecution to examine its witnesses within a reasonable despatch impacts the very essence of right to speedy trial. Further the injured witness has already been examined and the petitioner has not been specifically attributed the allegation of inflicting the gunshot injury.

4. *Per contra*, learned State counsel opposes the prayer for grant of regular bail to the petitioner on the ground that petitioner is the main accused and he was compelling the wife of the complainant to marry him as he was having one sided love with her and when she performed marriage with the complainant, then the petitioner in a pre-planned manner, attacked the complain-



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ant and his wife and fired upon her. The ballistic report fully proves the complicity of the petitioner. Moreover, the petitioner is a habitual offender involved in 06 more cases. As such, he is not entitled to any relief by this Court.

5. In rebuttal, learned counsel for the petitioner submits that in majority of those cases, petitioner is on bail and the said cases are mostly under Sections 379 and 379-B of IPC.

6. Having heard learned counsel for the parties and after perusing the record of the case, it transpires that the petitioner is behind the bars from the last more than 03 years and 08 months. Investigation of the case is complete. The final report under Section 173 Cr.P.C. was presented before the concerned Court and trial of the case will take considerable long time to conclude as out of total 35 PWs, only 05 have been examined so far.

7. The foundational concept of the criminal jurisprudence is to ensure speedy trial. The Hon'ble Supreme Court has repeatedly reiterated that right to speedy trial is enshrined in Article 21 of the Constitution of India. Speedy trial would cover investigation, enquiry, trial, appeal, revision and retrial etc. i.e. everything starting with the accusation against the accused and expiring with the final verdict of the last Court.

8. It has further been held in law that if a person is deprived of his liberty under a procedure which is not reasonable, fair, or just, such deprivation would be violative of his fundamental right under Article 21 of the Constitution of India. The procedure so prescribed must ensure speedy trial for determination of the guilt of such person. Some amount of denial of personal liberty cannot be avoided, but if the period of deprivation pending trial becomes excessively long, the fairness guaranteed by Article 21 of the Constitution of India would come into play.



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9. In this regard, reference is being made to the law laid down by the Hon'ble Supreme Court in the context of right to speedy trial under Article 21 of the Constitution of India on the following decision:- ***Akhtari Bi Vs. State of M.P., (2001) 4 SCC 355, Surinder Singh Alias Shingara Singh Vs. State of Punjab, (2005) SCC (Crl) 1674, P. Ramachandra Rao Vs. State of Karnataka, (2002) 4 SCC 578, Babu Singh and others Vs. State of U.P., (1978) 1 SCC 579, Takht Singh and others Vs. State of M.P., (2001) 10 SCC 463; Special Leave to Appeal (Crl) No.2356 of 2010, Kushal Singh Vs. State of U.P. (2JJ.) and Fazal Vs. State of Uttar Pradesh, (2012) 5 SCC 752.***

10. A two Judge Bench of Hon'ble Supreme Court in '**Satender Kumar Antil v. CBI**' (2022) 10 SCC 51, with respect to prevailing conditions of undertrial prisoner in India has observed:

"6. Jails in India are flooded with undertrial prisoners. The statistics placed before us would indicate that more than 2/3rd of the inmates of the prisons constitute undertrial prisoners. Of this category of prisoners, majority may not even be required to be arrested despite registration of a cognizable offence, being charged with offences punishable for seven years or less. They are not only poor and illiterate but also would include women. Thus, there is a culture of offence being inherited by many of them. As observed by this Court, it certainly exhibits the mindset, a vestige of colonial India, on the part of the investigating agency, notwithstanding the fact arrest is a draconian measure resulting in curtailment of liberty, and thus to be used sparingly. In a democracy, there can never be an impression that it is a police State as both are conceptually opposite to each other."

11. In view of the ratio of law laid down by Hon'ble Supreme Court in **Prabhakar Tiwari Vs. State of UP and Anr.** 2020(1) RCR (Criminal) 831 and **Maulana Mohd. Amir Rashadi Vs. State of U.P. and Others** 2012(2) SCC 382, the involvement of accused in other criminal cases cannot be the sole ground to deny him the concession of bail.

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12. In view the discussion above and without commenting upon the merits of the case, the present petition is allowed only due to the long incarceration undergone by the petitioner and further on account of failure of prosecution to conclude its evidence within a reasonable despatch. The petitioner-Sahil is ordered to be released on regular bail during pendency of the trial, on furnishing bail bonds/surety bonds to the satisfaction of Illaqa Magistrate/Trial Court/Duty Magistrate.

13. Nothing observed hereinabove shall be construed to be expression of an opinion by this Court on merits of the case. The learned Court below is directed to proceed with the matter on its own merits, lest it may prejudice the trial.

(HARPREET SINGH BRAR)
JUDGE

09.07.2025*Ajay Goswami**Whether speaking/reasoned*
*Whether reportable**Yes/No*
Yes/No