

2025:PHHC:110059



CRM-M-44243-2025

222

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

CRM-M-44243-2025

Date of decision: August 21, 2025

Nand Kishore

....Petitioner

Versus

State of Haryana

....Respondent

CORAM: HON'BLE MR. JUSTICE SUMEET GOEL**Present:-** Mr. Devender Kumar, Advocate for the petitioner.

Mr. Gurmeet Singh, AAG Haryana.

Mr. Manan Kheterpal, Advocate and
Mr. Ankur Kaushik, Advocate for the complainant.

SUMEET GOEL, J. (ORAL)

1. Present third 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.120 dated 17.06.2024, registered for the offences punishable under Sections 148, 149, 285, 323, 427, 452, 506 of the Indian Penal Code, 1860 (for short 'IPC') and Section 25 of the Arms Act, 1959 (for short 'Arms Act') (Offence under Section 452 of IPC deleted and offence under Sections 307 and 325 of IPC added later on), at Police Station Hassanpur, District Palwal.

2. The case set up in the FIR in question (as set out in the present petition by the petitioner) is as follows:

"To the SHO, Police Station Hassanpur. Subject:- For taking legal action against the accused. Sir, it is submitted that I Harvir son of Sh. Madan Lal, Caste Jaat, am a resident of Village Darana, Sub Tehsil Hassanpur, Tehsil Hodal, District Palwal. I practice in Hodal Court. Naresh @ Gullu and Rohit sons of Rattan Singh, Rattan Singh

2025:PHHC:110059



CRM-M-44243-2025

son of Hira Lal and Ajay son of Devi Ram, all residents of Village Darana broke the water pipe line coming to our fields and made their own connection instead. When we came to know, we objected to it, but all of them abused us. My brother Bhup Ram had given a complaint in this regard to Police Station Hassanpur and also filed a civil suit in Hodal Courts in which the next date of hearing is 19.06.2024. Yesterday i.e. on 16.06.2024 at about 8:45 PM I was lying on the cot in the tubewell room in the fields. My son was working on the submersible. My nephews Harender and Pardeep sons of Amar Singh were watering the paddy crop nearby. My brother Bhup Ram and his son Dinesh were watering the saplings. Kuldeep son of Bhup Ram was sitting on the 'Thakat' in the verandah near the tubewell. Naresh @ Gullu son of Rattan Singh armed with a country made pistol, Rohit son of Rattan Singh with a Ballam, Ajay son of Devi Ram with a Farsa, Nand Kishore @ Nanda armed with a lathi, all residents of Village Darana, Bhagat Singh son of Khubi Ram armed with Farsa, Satish @ Satto son of Sukhi with a country made pistol, Vinod son of Banshi and Satish's brother armed with Ballam in one hand and lathi in the other all residents of Village Chahra Ka Nangla, Tehsil Kama, District Deeg (Rajasthan), Leelu son of unknown of village Beda Patta armed with an iron saria along with 10-15 more persons came in Two Thar cars and 10-12 on motorcycles. The registration number of one car was HR-26EN-2021 and the number of other car was not readable due to darkness but was of Rajasthan. Satish @ Satto forcibly entered in the 'Kotha' and fired at me from a country made pistol with the intention to kill me but I escaped narrowly. Ajay and Rohit caught hold of me and dragged me out of the 'Kotha'. Bhagat Singh gave a farsa blow on my head, Nand kishore @ Nanda gave a lathi blow on my head which struck me on che right side of my head, Leelu gave an iron saria blow on my left side and I fell down. Then all the accused started giving me lathi and danda blows and I suffered injuries on both my hands, legs and back. Hearing my screams for help my brother Bhup Ram, nephews Harender, Pardeep and Dinesh and my son Rohit came came to save me. Naresh @ Gullu fired at them from the country made pistol but all the accused attacked them with lathi, danda, farsa and iron sarias. My brother and nephews also suffered many injuries who will themselves tell about the injuries suffered by them. Thereafter, seeing the villagers coming the accused started moving and while going away they threatened that we have been saved today but whenever they get a chance they shall finish us. Thereafter, we all came to Govt. Hospital Hodal where we were medico-legally examined and the doctor referred us to Govt. Hospital, Palwal, where we are under treatment. Hence, your goodself is requested to arrest the accused as soon as possible and take the strict legal action against them and our lives and properties be protected and justice be done to us. We shall be obliged."

3. Learned counsel for the petitioner has iterated that the petitioner is in custody since 12.07.2024. Learned counsel has further iterated that, assuming *arguendo*, the prosecution version is taken to be correct, the petitioner is attributed a *lathi* blow on the head of the complainant. Learned counsel has iterated that the petitioner has been falsely implicated into the

2025:PHHC:110059



CRM-M-44243-2025

FIR in question as there was an impending dispute over a water pipe between the accused side and the complainant side. Learned counsel has further argued that injured was discharged from the hospital long time ago. Learned counsel has argued that somewhat similarly placed co-accused of the petitioner, namely, Vinod has been extended the concession of regular bail by the Hon'ble Supreme Court, on 19.05.2025 passed in *Special Leave to Appeal (Crl.) No.6450 of 2025* (copy whereof is appended as Annexure P-14 with the petition). 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 19.08.2025, in the Court today, which is taken on record.

5. Learned counsel for the complainant has vehemently opposed the grant of regular bail to the petitioner by arguing that there are serious and direct allegations against the petitioner. Learned counsel has further argued that prime prosecution witnesses are yet to be examined and hence, bail ought not to be extended to the petitioner, at this stage. Learned counsel has iterated that the case of the present petition is not *pari materia* with co-accused, namely, Vinod, who has been extended the concession of regular bail by the Hon'ble Supreme Court. Learned counsel has further iterated that another FIR has been registered, after the registration of the FIR in question, against the petitioner. On the strength of these submissions, prayer for dismissal of the present petition is entreated for.

2025:PHHC:110059



CRM-M-44243-2025

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

7. The petitioner was arrested on 12.07.2024 whereinafter investigation was carried out and challan was presented on 09.09.2024. Total 29 prosecution witnesses have been cited, out of which only 01 has been examined till date. 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.

7.1. Indubitably, the present petition is the third attempt by the petitioner to secure regular bail. The last bail plea preferred by the petitioner was dismissed as withdrawn on 06.03.2025. However, keeping in view further incarceration of the petitioner for a period of more than 03 months and no substantial progress in trial, this Court is inclined to favourably 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.

2025:PHHC:110059



CRM-M-44243-2025

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).

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.”

7.2. 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

2025:PHHC:110059



CRM-M-44243-2025

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

7.3. As per custody certificate dated 19.08.2025 filed by learned State counsel, the petitioner has already suffered incarceration for a period of 01 year, 01 month and 08 days, & is not shown to be involved in any other case/FIR.

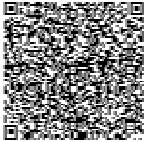
Suffice to say, further detention of the petitioner as an undertrial is not warranted in the facts and circumstances of the case.

8. 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.

9. 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

2025:PHHC:110059



CRM-M-44243-2025

State/complainant shall be at liberty to move cancellation of bail of the petitioner.

- 10. Ordered accordingly.
- 11. Nothing said hereinabove shall be construed as an expression of opinion on the merits of the case.
- 12. Since the main case has been decided, pending miscellaneous application, if any, shall also stands disposed off.

(SUMEET GOEL)
JUDGE

August 21, 2025
mahavir

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