



IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

214

CRM-M No.44407 of 2025 (O&M)

Date of Decision: 14.11.2025

Akash Masih

.....Petitioner

Versus

State of Punjab

..... Respondent

CORAM: HON'BLE MR.JUSTICE SURYA PARTAP SINGH

Argued By: Mr.Vipin Mahajan, Sr. Advocate with
Ms. Chandan Preet Kaur Ahluwalia, Advocate
for the petitioner.

Mr. I.P.S. Sabharwal, DAG, Punjab.

SURYA PARTAP SINGH, J. (Oral):

For the commission of offence punishable under Sections 302 and 34 IPC, the FIR No.23 dated 15.04.2024, has been lodged in Police Station Purana Shala, District Gurdaspur. The petitioner has been arrested in the above mentioned case as an accused. Since the petitioner is in custody, he has filed the present petition for the benefit of bail under Section 483 of BNSS. This is first petition for grant of bail.

2. Briefly stating the facts emerging from record are that the FIR of this case came into being at the instance of 'Rahul' hereinafter being referred to as 'complainant'. It was stated by the complainant that on 14.04.2024 he along with his wife and the family of his elder brother 'Raju', and cousin 'Dharminder' had attended fair at 'Pandori Dham' where a boy aged about 20-23 rubbed his shoulder with 'Dharminder'. As per complainant, subsequent thereto a quarrel took place between them and the above said boy attacked



‘Dharminder’ with the help of knife. According to complainant with an intention to rescue ‘Dharminder’ when ‘Raju’ came forward 2-3 boys, accompanying the abovesaid assailant, joined the attack, and exhorted to kill ‘Raju’. The complainant further alleged that thereafter, they inflicted blow on the left side of neck and left shoulder of ‘Raju’. As per complainant, ‘Raju’ was immediately shifted to Hospital Gurdaspur, and thereafter, to Abrol Hospital, but during treatment he passed away. It is the case of the prosecution that on basis of above mentioned information formal FIR was lodged and the investigation was taken up. As per prosecution during the course of investigation the petitioner was arrested and since then he is in custody.

3. Heard.

4. It has been contended on behalf of petitioner that petitioner is innocent having no nexus, whatsoever, with the commission of crime and that he has been falsely implicated in the present case. The learned counsel for the petitioner has contended that with regard to identity of assailant, the Investigating Officer had recorded a supplementary statement of the complainant ‘Rahul’, on 15.04.2024, and that in the above mentioned supplementary statement the names of ‘Rahul’ son of ‘Raju Masih’, ‘Sanju Masih’ son of ‘Raju Masih’ and ‘Aman Kumar’ son of ‘Harbhajan’ were mentioned and there was no mention of the name of petitioner. The learned counsel for the petitioner has further contended that during the course of investigation the statement of eye-witness of the occurrence, namely ‘Dharminder’, was also recorded on 16.04.2024 and even in that statement it has been mentioned that fatal blow on the person of Raju was inflicted by ‘Abhishek Masih’, and not by the petitioner.



5. In addition to above, the learned counsel for the petitioner has also contended that during the course of trial the statement of Dharminder has been recorded as PW 1, and while deposing in the Court the PW1 has deposed that fatal blow on the person of deceased 'Raju' was inflicted by 'Rahul' and not by the petitioner. According to learned counsel for the petitioner the petitioner has already suffered a prolonged incarceration for being in custody for more than 1 ½ years and the trial is not likely to be concluded in near future as out of 17, only 5 witnesses have been examined so far.

6. Per contra, the learned State counsel has argued that allegations in the present case are with regard to commission of murder, and in the statement of eye-witness of the occurrence, recorded by the Investigating Officer on 16.04.2024, the name of petitioner specifically finds mention.

7. The record has been perused carefully.

8. A perusal of the record shows that there are several factors which are required to be taken into consideration at this stage. They are:-

- i). that the petitioner has already suffered incarceration for a period of more than 1 ½ years;
- ii) that the statement of eye-witness namely 'Dharminder' has already been recorded as PW1, and in his statement, on oath, before the Court the PW1 has not attributed any injury to the petitioner. Rather it has been specifically deposed by the PW1 that fatal blow on the person of 'Raju' was inflicted by 'Rahul';
- iii) that nothing is left to be recovered from the possession of the petitioner;
- iv) that the trial of the case is not likely to be concluded in near



future as out of 17 witnesses only 5 have been examined;

- v) that detention of the petitioner in judicial lock up is not likely to serve any purpose;
- vi) that there is nothing on record to show that if released on bail, the petitioner is likely to tamper with the evidence, or influence the witnesses;
- vii) that there is nothing on record to show that if petitioner is released on bail, he will not participate/co-operate in the trial.

9. With regard to the legal aspect involved in the instant case, the principles of law laid down by the Hon'ble Supreme Court in the case of ***"Dataram versus State of Uttar Pradesh and another", 2018(2) R.C.R. (Criminal) 131***, are relevant, wherein it has been 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”.

10. 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 abovementioned 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*”.

11. 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 abovementioned 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*”.

12. 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*.

13. Taking into consideration the cumulative effect of all the aforesaid factors, it is hereby held that the petitioner is entitled for the concession of bail and that the present petition deserves to be allowed.

14. 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:-

- i) 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 from closing such facts to the Court or to any other authority;
- ii) 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 final decision of the trial;
and

iii) that the petitioner shall not leave India without prior permission
of the trial Court.

15. 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.

(SURYA PARTAP SINGH)
JUDGE

14.11.2025
Manoj Bhutani

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