



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

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CRM-M-49386-2024 (O&M)
Date of decision: 03.04.2025

Sandeep Boxer

....Petitioner

Versus

State of Haryana

....Respondent

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Mr. Sankalp Gehlawat, Advocate
for the petitioner.

Mr. Vikas Bhardwaj, AAG, Haryana.

HARPREET SINGH BRAR J. (Oral)

1. Prayer in this 4th petition filed under Section 483 of the BNSS, 2023, is for grant of regular bail to the petitioner in FIR No.0371 dated 05.08.2019 registered under Sections 302, 201, 120-B, 34 IPC, Section 25 of the Arms Act, 1959, at Police Station City Tohana, District Fatehabad.

2. The 3rd petition filed by the petitioner seeking regular bail was dismissed on 11.01.2024 (Annexure P-3) and this 4th petition has been filed in view of the changed circumstances as the co-accused of the petitioner namely Satnam Singh, has been granted the concession of regular bail by this Court vide order dated 20.03.2025, passed in CRM-M No.14048 of 2025.

3. The brief facts of the case are that on 05.08.2019, the complainant Parvinder Singh and his deceased brother Gurdeep Singh



recorded his statement before the police to the effect that on the same day, when he along with his deceased brother had gone to I.G. College, Tohana to meet their friends, at about 11:00 AM, three youths came there and out of them two persons caught hold of Gurdeep Singh from his arms, while third fired a gun shot from pistol by placing mouth of barrel on his chest, due to old enmity. They raised alarm, however, the accused persons fled away. The complainant disclosed the identity of the assailants as Sandeep son of Pala Ram, Rahul Boxer and third person was unknown. Hence, the FIR (*supra*) was registered.

4. Learned counsel for the petitioner submits that the present petition has been filed in view of the infringement of petitioner's right enshrined under Article 21 of Constitution of India as the petitioner is behind the bars since 20.08.2019 and has undergone actual custody period of 05 years, 07 months and 14 days. He further submits that till date, the prosecution has not been able to conclude its evidence as out of 38 prosecution witnesses cited by the prosecution, only 04 PWs have been examined. He furthermore submits that the material eye-witness has already been examined by learned trial Court and while deposing as prosecution witness, he has failed to recognize the petitioner. As such, keeping in view the long incarceration of the petitioner, he is entitled to grant of concession of regular bail.

5. Learned State counsel produces the custody certificate, which is taken on record and *per contra*, opposes the prayer made by the petitioner on the ground that the petitioner has played an active role



in aiding and committing the murder of the deceased. He further submits that the petitioner is involved in one more case bearing FIR No.505 dated 22.08.2023 registered under the provisions of Sections 147/148/149/323 IPC and 42 Prisons Act. However, he could not controvert the fact that only 04 PWs, out of total 38 prosecution witnesses, have been examined so far and the petitioner is behind the bars for the last more than 05 years and 07 months and 14 days as on 03.04.2025.

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 since 17.08.2019. The final report under Section 173 Cr.P.C. was presented before the concerned Court and subsequently, charges were framed. Currently, the trial is at the stage of prosecution witness and out of 38 prosecution witnesses, only 04 have been examined till date. The petitioner has already undergone actual custody period of 05 years, 07 months and 14 days of custody as on 03.04.2025 and the delay in conclusion of trial cannot be attributed to him.

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.

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. 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.

11. Accordingly, the present petition is allowed and petitioner – Sandeep Boxer is ordered to be released on regular bail during trial on his furnishing bail/surety bonds to the satisfaction of learned Illaqa Magistrate/trial Court/Duty Magistrate concerned.

12. The present petition seeking regular bail to the petitioner is allowed solely on the ground of long custody already undergone by him and without commenting on the merits of the case, lest it may prejudice the outcome of the case pending before the learned trial Court.

(HARPREET SINGH BRAR)
JUDGE

03.04.2025
yakub

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