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2025:PHHC:123788



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

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Date of decision: September 10, 2025

Gurwinder Singh

....Petitioner

versus

State of Punjab

....Respondent

CORAM: HON'BLE MR. JUSTICE SUMEET GOEL

Present:- Mr. L.S. Mann, Advocate for
Mr. Kulwinder Singh Lakhanpal, Advocate for the petitioner.

Mr. Baljinder Singh Sra, Additional AG Punjab.

SUMEET GOEL, J. (ORAL)

Present second 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 FIR No.0011 dated 22.02.2025, for the offence punishable under Sections 115(2)/ 333/ 351(3)/ 3(5) of the Bharatiya Nyaya Sanhita, 2023 (for short 'BNS') (Section 109 of BNS added later on), registered at Police Station Sudhar, District Ludhiana.

2. The gravamen of allegations against the petitioner is that on **16.02.2025 at about 8:00 PM**, when upon hearing a noise at the door, son of the complainant (Darshan Singh) went to check, then he saw Kirnandeep Singh @ Kirna armed with a *Toki*, Kulwinder Singh @ Kinda armed with a *Toki*, Lakhwinder Singh @ Lakha, and Gurwinder Singh (petitioner herein)

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standing in front of their gate. The petitioner was sitting on a motorcycle outside the house, while the remaining three forcibly pushed the door and entered inside. Immediately, co-accused, namely, Kirnandeep Singh @ Kirna struck son of the complainant on the head with a *Toki*, causing him to cry out in pain. Then, another co-accused, namely, Kulwinder Singh @ Kinda struck his son from behind with the reverse side of the *Toki*, hitting him on the back. The son of the complainant collapsed to the ground, and blood started oozing from his head. Meanwhile, co-accused, namely, Lakhwinder Singh @ Lakha raised a *lalkara*. When the complainant rushed to help his son, Lakhwinder Singh caught hold of him and attacked with a *Toki*, hitting his left wrist. Kirnandeep Singh again assaulted the complainant with a *Toki*, this time on his chest. Lakhwinder Singh further gave him fist blows on his face and on the side of his stomach, causing deep injuries. On hearing the commotion, daughter-in-law of the complainant raised a *raul*. At this, all the accused fled the spot with their weapons on the motorcycle, threatening them before leaving.

3. Learned counsel for the petitioner has argued that the petitioner is in custody since 01.03.2025. Learned counsel has iterated that assuming *arguendo*, the prosecution version is taken to be correct, the injury which has invoked provisions of Section 109 of BNS is directly attributable to the co-accused, namely, Kirnandeep Singh @ Kirna not to the present petitioner; the petitioner has been ascribed the role of guarding only. Learned counsel has further iterated that the petitioner has been falsely implicated into the FIR in question as he had friendly relations with the main accused, namely,

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Kirandeep Singh @ Kirna, who is stated to have some dispute with the complainant side. Learned counsel has also argued that the petitioner is the sole bread earner of his family with clean antecedents. Learned counsel has further argued that the petitioner has suffered incarceration of more than 06 months. 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, he does not deserve the concession of the regular bail. The State counsel seeks to place on record custody certificate dated 09.09.2025 in the Court today, which is taken on record.

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

6. The petitioner was arrested on 01.03.2025 whereinafter investigation was carried out and challan was presented on 07.08.2025. Total 16 prosecution witnesses have been cited, and it is not in dispute that none has been examined till date. Indubitably, conclusion of the trial will take long time. The rival contention raised at Bar give rise to debatable issues, which shall be ratiocinated upon during the course of trial. 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.

6.1. Indubitably, the present petition is the second attempt by the petitioner to secure regular bail. The last bail plea preferred by the petitioner

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was dismissed as withdrawn on 09.07.2025. However, keeping in view further incarceration of the petitioner for a period of more than 02 months; including factum of investigation having been culminated and challan stands presented on 07.08.2025 after the first plea for grant of bail was dismissed as withdrawn and extended custody of the petitioner, 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.

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.”

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6.2. As per custody certificate dated 09.09.2025 filed by learned State counsel, the petitioner has already suffered incarceration for a period of 06 months and 07 days, & is not shown to be involved in any other FIR(s).

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

7. 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 cell-phone 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.

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

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9. Ordered accordingly.
10. Nothing said hereinabove shall be construed as an expression of opinion on the merits of the case.

(SUMEET GOEL)
JUDGE

September 10, 2025
mahavir

Whether speaking/reasoned: Yes/No

Whether reportable: Yes/No