



In the High Court of Punjab and Haryana, at Chandigarh

Criminal Misc. No. M-48199 of 2025

Date of Decision: 17.11.2025

Tirath Singh alias Kali

... Petitioner(s)

Versus

State of Punjab

... Respondent(s)

CORAM: Hon'ble Mr. Justice Surya Partap Singh.

Present: Mr. Rajdeep Singh Gill, Advocate
for the petitioner(s).

Mr. I.P.S.Sabharwal, Deputy Advocate General,
Punjab, for the respondent.

Surya Partap Singh, J.

1. For the commission of offence punishable under Sections 109, 115(2), 118(1), 191(3) and 190 of the Bharatiya Nyaya Sanhita, 2023, hereinafter being referred to as “BNS” only [Sections 117(2), 118(2) & 238 of BNS added later on], the FIR No. 16 dated 12.03.2025 has been lodged in Police Station Sherpur, District Sangrur, Punjab. This is first petition for bail, filed by the petitioner, for the benefit of bail under Section 483 of the Bharatiya Nagarik Suraksha Sanhita, 2023, hereinafter being referred to as “BNSS” only.

2. Briefly stating the facts emerging from record are that the above mentioned FIR came into being on the statement of Jaswinder Singh alias Jassa, hereinafter being referred to as “complainant” only. It was stated by the above named complainant that on 12.03.2025, when he was on 75 days

leave, he visited his village. According to complainant, Akashdeep Singh, resident of village Gurbaxpura, is his friend, and that he was having visiting terms with Akashdeep Singh. As per complainant, on 11.03.2025 Akash alias Chulla had hurled abuses to Akashdeep Singh on phone, and when he was told about the above mentioned incident he asked Akash alias Chulla and others not to do so.

3. The complainant further alleged that on that day at about 8:30/09:00 P.M. he was called by Akash alias Chulla at the gate of the school and when he (complainant) reached there, Hani armed with *kirpan* (a sword), Tirath Singh alias Kali armed with *khanda* (a double edged sword), Harry, Gursewak Singh alias Jagla, Amritpal Singh alias Ambi, Baba, Guri alias Alto and Akash armed with *dah* (a billhook) and *garariyan* (sharp edged weapon) and *sticks* etc. Launched an attack upon him and inflicted injuries on his person.

4. It is the case of prosecution that in view of above mentioned statement, the formal FIR of this case was lodged, the medicolegal report of the injured and other relevant evidence was collected, and thereafter the petitioner and his co-accused were prosecuted.

5. Heard.

6. It has been contended on behalf of petitioner that the petitioner is innocent having no nexus, whatsoever, with the commission of crime, and that he has been falsely implicated in the present case. According to learned counsel for the petitioner, otherwise also, the petitioner has already suffered a long incarceration for being in custody for a period of four months & five days, and that the injury attributed to the petitioner is neither on a vital part

of the body, nor the same has been declared to be grievous and dangerous to life. According to learned counsel for the petitioner, the trial is not likely to be completed in the near future, and therefore, the petitioner is entitled for the benefit of bail.

7. While controverting the above mentioned arguments, the learned State counsel has argued that in the present case, there are very specific and categoric allegations of causing grievous injuries on the person of complainant, and that the petitioner, who was member of an assembly having common intention and common object to inflict grievous injury on the person of complainant, cannot shy away from his responsibility of inflicting grievous injury on the person of complainant.

8. The record has been perused carefully.

9. A careful perusal of record shows that in the present case, there are several factors which are required to be taken into consideration for arriving at any decision with regard to instant bail petition:-

- i) that the petitioner is already in custody for a period of more than four months;
- ii) that the injured has already been discharged from the hospital;
- iii) that the trial is not likely to be concluded in near future;
- iv) that nothing is left to be recovered from the possession of petitioner;
- v) that detention of 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; and

- vii) that there is nothing on record to show that if released on bail, the petitioner will not participate/cooperate in the trial.

10. With regard to the legal aspect involved in the instant case, it is relevant to mention that the Hon'ble Supreme Court in the case of "***Dataram versus State of Uttar Pradesh and another***", 2018(2) R.C.R. (Criminal) 131, has 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.”

11. 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 above mentioned 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.”*

12. 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 above mentioned 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.”*

13. 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*.

14. If the cumulative effect of all the above mentioned factors, involved in the instant case, is taken into consideration, it leads to a conclusion that the petitioner is entitled for the benefit of bail, and that the present petition deserves to be allowed.

15. 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:-

- a) 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 to disclose such facts to the Court or to any other authority;
- b) 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 conclusion of trial; and
- c) that the petitioner shall not leave India without prior permission of the trial Court.

16. 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.

17. It is, however, made clear that any observation made here-in-above is only for the purpose of deciding the present petition and the same shall have no bearing on the merits of the case.

(Surya Partap Singh)
Judge

November 17, 2025
“DK”

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