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In the High Court of Punjab and Haryana at Chandigarh

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CRM-M-52869-2024 (O&M)

Date of Decision: 11.02.2025

GURSHARAN SINGH ALIAS GULSHANPETITIONER**VERSUS****STATE OF PUNJAB****...RESPONDENT****CORAM: HON'BLE MR. JUSTICE PANKAJ JAIN**

Present: Mr.G.B.S. Dhillon, Advocate for the petitioner.

Mr.Ishan Kaushal, AAG, Punjab.

Mr. Gautam Dutt, Advocate,
Mr. Sanjeev Trikha, Advocate and
Ms. Ranica Sachdeva, Advocate for the complainant.

PANKAJ JAIN, J (ORAL)

1. Present petition has been filed under Section 483 BNSS for grant of regular bail to the petitioner in case bearing FIR No.64 dated 28.04.2022, registered for the offences punishable under Sections 302 and 34 IPC and Sections 25/27/29/30/54/59 of the Arms Act at Police Station Mamdot, District Ferozepur.

2. As per contents of the FIR, it was alleged as under:-

“Statement of Karnail Singh son of Gurdeep Singh resident of Tibbi Kalan Police Station Mamdot aged about 58 years, Mobile No.94173-75568. Stated that I am resident of the abovesaid address and am having a shop of Commission Agent alongwith farming occupation. My nephew Kuljinder Singh son of Wirsia Singh resident of Deh is also having shop of commission agent beside my shop. On dated 27.4.2022, time may be around 11 PM Mangal Singh



Paledar and Paledar of my commission agent shop Paramjit Singh son of Chiman Singh resident of Tibbi Kalan, had a fight between them. Regarding which, time was fixed to gather at my shop in the morning at 10, where today I alongwith my nephew Kuljinder Singh and my Paledar Paramjit Singh were sitting outside my shop in the shed. My farmer Kirpal Singh son of Piara Singh resident of Jodhpur, who had kept their grains in my area (Farr), were also sitting in the shed. Time may be around 9 in the morning that Gursharan @ Gulshan son of Surat Singh, Surat Singh son of Sunder Singh and Mangal Singh son of Ashiq resident of Tibbi Khurd, came near the shed on their swift dzire car colour white. Mangal raised Lalkara that "Karnail Singh' last night your labour was speaking in front of us. Today we will teach you a lesson for this. Then Kirpal Singh son of Piara Singh resident of Jodhpur came in front and tried to convince them. Then Surat Singh by raising lalkara said to Gursharan Singh @ Gulshan that first teach a lesson to Kirpal Singh for coming in front. Then Gursharan Singh @ Gulshan took out the pistol from his dabb (girdle pocket) and fired a shot on Kirpal Singh which hit on the left side of his abdomen on front. I and my nephew and our Paledar Paramjit hurriedly ran and went inside our (my) shop. Above said accused fired many other shots in the air and by raising lalkara went away from the spot on their car. The reason for the grouse is that on 27.4.2022, at night, our labour had a fight. Due to which, the above said accused in connivance with each other, by firing on us have killed Kirpal Singh. By arranging for vehicle, we brought Kirpal Singh to Baghi Hospital Ferozepur, where Kirpal Singh died. We have come to know that Gursharan Singh @ Gulshan son of Surat Singh has got admitted by inflicting fake injuries. Statement is given and is found correct. Sd/-



Karnail Singh Statement endorsed Sd/- Kuljinder Singh son of Virsa Singh resident of Tibbi Kalan, Attested Sd/ SHO Police Station Mamdot.”

3. As per the custody certificate, the petitioner is behind bar for more than 02 years, 05 months and 03 days. It appears from the record that qua the same incident, there is version and cross-version. Two cross trials are in progress.

4. Counsel for the petitioner has drawn attention of this Court to para No.6 of the impugned order, which reads as under:-

“6. The allegations against the applicant/accused are that he fired towards Kirpal Singh, resulting into the death of Kirpal Singh. No doubt the prosecution evidence in this case is complete and the case is pending for defence evidence and cross case is pending for procuring the presence of accused of that case, learned counsel for complainant in the present case and accused in the cross case has submitted that accused would appear in the Court on the next date and thereafter, it would be for the applicant/accused to conclude his evidence in the cross case, as it is a private complaint case. Considering the fact that learned counsel for complainant and accused in the cross case has undertaken that accused of that complaint case would appear in the Court on next date and thereafter, it would be for the applicant/accused to conclude the evidence and the applicant/ accused can conclude the evidence by getting short adjournments, I am of the opinion that both the trials would come to an end within a period of six months and in case, trial in the cross case is not complete within next six months due to fault of the complainant party, then applicant can move application for his release, as applicant cannot be kept in custody for



indefinite period and right of speedy justice is fundamental right. So, considering the facts and circumstances and the role played by applicant/accused and evidence on record, applicant/accused cannot be released on bail at this stage. Present application for regular bail is dismissed. Bail papers be attached with the main file.”

5. Counsel for the complainant joins issue thereon and submits that the prosecution evidence already stands concluded even prior to 21.11.2024. Thereafter the petitioner is seeking repeated adjournments to conclude his defence evidence. He further submits that even in the cross trial against the complainant, wherein the petitioner is the complainant, the trial has reached its penultimate stage.

6. In the considered opinion of this Court, there cannot be any dispute with respect to right of speedy trial of an accused which has its genesis in Article 21 of the Constitution of India. However, the question is whether an accused, who himself is delaying trial, can plead right to speedy justice. In the considered opinion of this Court, the answer is no. Once it is the accused-petitioner himself, who is delaying the trial, he cannot claim bail as a matter of right claiming long incarceration.

7. Counsel for the petitioner has relied upon the judgment of the Supreme Court in the case of **Mukesh Kumar versus The State of Rajasthan and another**, Special Leave to Appeal (Crl.) No.11714 of 2022 decided on 15.02.2023 and judgment of this Court in **Surjit Singh versus State of Punjab**, CRM-M-45682 of 2022 decided on 31.07.2023. However, the same



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are not applicable as in those cases, there is no allegation that the accused himself is involved in delaying the trial.

8. Keeping in view the nature of allegations and the fact that the petitioner has delayed the trial for the last more than 01 years, the present petition is dismissed.

9. At this stage, counsel for the petitioner prays for withdrawal of the present petition.

10. The petition is dismissed as withdrawn.

(PANKAJ JAIN)
JUDGE

11.02.2025
A.Kaundal

Whether speaking/ reasoned :
Whether Reportable :

Yes/No
Yes/No