



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

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**CRM-M No.50834 of 2025 (O&M)
Date of Decision:16.09.2025**

Shakir @ Mota

.....Petitioner

Versus

State of Haryana

..... Respondent

CORAM: HON'BLE MR.JUSTICE SURYA PARTAP SINGH

Present: Mr.Nissim Aggarwal, Advocate for the petitioner.
(through hybrid mode).

Ms. Deepali Verma, AAG, Haryana.

SURYA PARTAP SINGH, J. (Oral):

1. Present is the first bail petition filed under section 483 of Bharatiya Nagarik Suraksha Sanhita, 2023 (hereinafter referred to as “BNSS”). The record reveals that the petitioner is facing trial for the commission of offence punishable under Sections 3(5), 115, 126 of Bharatiya Nyaya Sanhita, 2023 and Section 25 of the Arms Act, 1959 (Sections 103(1), 190 and 191(3) of BNS added later on and Section 3(5) BNS deleted), vide FIR No. 465 dated 21.07.2024, Police Station Chandnibagh, District Panipat.

2. It is the case of the prosecution that the FIR mentioned above came into being in view of a complaint submitted by Krishan Pal son of Bhole Ram. According to above named complainant, now deceased (hereinafter referred to as “the deceased”), on 20.07.2024, he along with his sister was going to Vighanand Colony. There, at about 9/9.30 P.M., two boys came from a neighbouring street waylaid him and started thrashing him. According to above



named deceased, he was hit on his stomach by a sharp edged object and therefore, he got himself treated in government hospital. It was specifically mentioned by the above named victim that action be taken against the assailants, namely Deepak and Azad.

3. It is the case of prosecution that pursuant to above mentioned complaint, FIR for the commission of offence punishable under Sections 3(5), 115, 126 of Bharatiya Nyaya Sanhita, 2023 and Section 25 of the Arms Act, 1959 (Sections 103(1), 190 and 191(3) of BNS added later on and Section 3(5) BNS deleted) was lodged and the investigation taken up. However, during course of investigation when the above named complainant passed away, on account of injuries suffered by him in the above above mentioned incident, Section 103(1) of BNS has been added in this case and the investigation taken up, accordingly. It is the case of the prosecution that during the course of investigation, when CCTV footage of the neighbouring area was examined, it was found that the petitioner, too, was involved in the above mentioned incident. Resultantly, he has been arrested and prosecuted accordingly.

4. Heard.

5. It has been contended by learned counsel for the petitioner that the petitioner is innocent having no nexus, whatsoever, with the commission of crime and that despite the fact that in his last statement before death, the deceased/complainant had categorically mentioned the names of assailants, the Investigating Agency has illegally involved the petitioner who was not named by the deceased-victim. It has also been argued by learned counsel for the petitioner that nothing has been recovered from the possession of petitioner



and that the investigation in this case is already complete. As per learned counsel for the petitioner, since nothing is left to be recovered from the possession of petitioner and trial is not likely to be concluded in near future, the petitioner is entitled for the benefit of bail.

6. The learned State counsel has controverted the above mentioned arguments. According to learned State counsel, in the present case, the offence for which the petitioner has been arrested, is heinous in nature, as the action of petitioner along with his co-accused has taken away the life of one human being. It has also been argued by learned State counsel that trial is taking place at a reasonable pace and that there is irrefutable evidence against the petitioner, as the petitioner has been named in the disclosure statement of co-accused Azad. According to learned State counsel, in view of above mentioned evidence, the involvement of the petitioner in the commission of crime is proved and therefore, he is not entitled for the benefit of bail.

7. I have perused the record carefully.

8. In the present case, at the very outset it is relevant to mention here, that the statement of victim which had formed the basis of FIR was his last statement indicating towards the cause of his death. In the above mentioned statement, the deceased had specifically mentioned that attack was launched by two persons, namely Deepak and Azad. There is no reference with regard to presence of third person on the spot, either for assisting the above named accused or actively participating in the event. This statement of deceased-victim, prima facie, comes within the category of dying declaration and carries a very high probative value.



9. Secondly, the medicolegal evidence placed on record along with reply of the State, shows that at the time of medicolegal examination of the deceased, in Civil Hospital on 20.07.2024 at 1.26 P.M., only a superficial lacerated wound of 2x1cm was found over right upper abdomen with fresh bleeding and as per opinion of the Medical Officer the kind of weapon used was blunt pointed. But in the post mortem report, the injury has been shown to be stab injury on the abdomen.

10. Thirdly, the petitioner has already suffered sufficient incarceration for being in custody for a period of 4 months and 3 days.

11. Fourthly, as discussed above, his name does not figure in the above mentioned FIR.

12. Fifthly, neither any weapon of offence has been attributed to the petitioner nor recovered.

13. Sixthly, nothing is left to be recovered from the possession of accused.

14. Seventhly, the injury responsible for the death of deceased has not been attributed to the petitioner.

15. Eighthly, detention of the petitioner behind the bars is not likely to serve any purpose.

16. Taking into consideration the cumulative effect of all the aforesaid factors, it is hereby held that the present petition deserves to be allowed. Hence, the same is hereby allowed and the petitioner is admitted to bail subject to his furnishing bail bonds to the satisfaction of the learned trial Court. In case, the learned trial Court concerned is not available on the date of furnishing



bail bonds, the learned Sessions Judge shall be at liberty to assign the above case, for the above-mentioned purpose, to any other Court.

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

16.09.2025
Manoj Bhutani

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