



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

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**CRM-M No.51121 of 2025
Date of decision : 17.9.2025**

Ashok @ Bhura**.....Petitioner****Versus****State of Haryana****.....Respondent****CORAM: HON'BLE MR. JUSTICE SUMEET GOEL**

Present: Mr. Namit Khurana, Advocate, for the petitioner

Mr. Gurmeet Singh, AAG, Haryana

SUMEET GOEL, J. (ORAL)

1. 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.274 dated 10.5.2021, under Sections 302, 202, 201 read with Section 34 of IPC and Sections 25 and 26 of Arms act, 1959, registered at Police Station Kundli, District Sonapat.
2. The case set up in the FIR in question (as set out in the present petition by the petitioner) is as follows:-

'Statement of Rohit son of Ambika Parshad. Village Gaunha. District Rai Bareilly P. at present village Jatheri, 9518491706. It is stated that I am resident of the aforesaid address and do labour work. Today at about 8.00 AM, I after taking my tractor had been going at the place where our work of Dhalai was going on. then I saw a man lying in the field wrapped with a blanket. I, on suspicion stopped my tractor and saw after removing the



blanket. in that a dead body of a healthy man was wrapped and lying in the wheat crop. intimation of which was given by me to Pritampura Sarpanch and after calling him in this regard showed him the dead body. Then Pritampura Sarpanch dialed at No.100. On receipt of the intimation, you have come at the spot. From the dead body of the man of unknown name and address, it appears that some person of unknown name and address on account of their revenge together, after causing injuries has murdered him and after killing him, after lifting the dead body. have On this thrown here in the fields. After searching them. a strictest legal action may be taken against all of them. I. on humanitarian ground have disclosed y our goodself about the dead body. Statement has been got recorded. same has been heard and is correct. SD Rohit 9518491706. 8559982561. 7976705755.'

3. Learned counsel for the petitioner has argued that the petitioner is in custody since 15.5.2021. Learned counsel has further argued that the petitioner has been falsely implicated into the FIR in question. Learned counsel has further argued that, assuming *arguendo*, the prosecution version is taken to be correct, the prime prosecution evidence available against the petitioner is that of 'last seen' which is ratified by witness Rahul, whose testimony has already been recorded. Learned counsel has further argued that the petitioner is a young man aged 29 years with no criminal antecedents. Learned counsel has further argued that all the private prosecution witnesses have been examined and thus, there is no likelihood of the petitioner to interfere with the prosecution evidence. Learned counsel has further submitted that the present petition is the second plea on behalf of the petitioner to secure regular bail, his first petition was dismissed on 17.2.2025. Learned counsel has referred to the *zimni* orders dated 24.2.2025, 12.3.2025, 17.4.2025, 29.5.2025 and



25.7.2025 to argue that the trial is procrastinating for want of witnesses, including police officials, appearing before the concerned trial Court. Thus, regular bail is prayed for.

4. Learned State counsel has opposed the present petition by arguing that the allegations raised are serious in nature and thus the petitioner does not deserve the concession of the regular bail. Learned State counsel seeks to place on record custody certificate dated 15.9.2025 in Court, 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 15.5.2021 and stated to be in continuous custody since then. Total 21 prosecution witnesses have been cited out of which only 13 have been examined till date. It is thus indubitable that culmination of trial will take its own time. The rival contentions raised by learned counsel 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 At this juncture, it would be apposite to refer herein to a judgment passed by the Hon'ble Supreme Court in ***Criminal Appeal No.2787 of 2024*** titled as ***Javed Gulam Nabi Shaikh vs. State of Maharashtra and another***, decided on 03.07.2024; relevant whereof



reads as under:-

“19 If the State or any prosecuting agency including the court concerned has no wherewithal to provide or protect the fundamental right of an accused to have a speedy trial as enshrined under Article 21 of the Constitution then the State or any other prosecuting agency should not oppose the plea for bail on the ground that the crime committed is serious. Article 21 of the Constitution applies irrespective of the nature of the crime.

20. We may hasten to add that the petitioner is still an accused; not a convict. The over-arching postulate of criminal jurisprudence that an accused is presumed to be innocent until proven guilty cannot be brushed aside lightly. howsoever stringent the penal law may be.

21. We are convinced that the manner in which the prosecuting agency as well as the Court have proceeded, the right of the accused to have a speedy trial could be said to have been infringed thereby violating Article 21 of the Constitution.”

6.2 A perusal of the various *zimni* orders placed on record, do indicate that the trial is procrastinating and the petitioner cannot be saddled with the error therein. Indubitably the petition in hand is the second attempt to secure regular bail. His first petition was dismissed on 17.2.2025. However, keeping in view the extended custody of the petitioner by further period of 7 months and the slow pace of trial, which is clearly decipherable at the end of the petitioner, this Court is affirmatively consider the present petition.

6.3 It would be apposite to refer herein a judgment of this Court in **Rafiq Khan v. State of Haryana and another**, CRA No.2332 of 2023 decided on 22.2.2024, 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.'

6.4 As per custody certificate dated 15.9.2025 filed by learned State counsel, the petitioner has already suffered incarceration for a period of 4 years, 3 months and 27 days & is not shown to be involved in any other case.

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.

9. Ordered accordingly.

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

(SUMEET GOEL)
JUDGE

17.9.2025
Ashwanii

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