



IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

Date of decision: 05.02.2025

1. CRM-M-53404-2024

Jaswinder Singh @ Shinder Singh
....Petitioner
Versus
State of Punjab
....Respondent

2. CRM-M-53426-2024

Balkaran Singh
....Petitioner
Versus
State of Punjab
....Respondent

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Mr. Deepak Aggarwal, Advocate
for the petitioner(s) in both the petitions.

Mr. Sandeep Kumar, DAG, Punjab.

HARPREET SINGH BRAR J. (Oral)

1. Vide this common order, I intend to dispose of CRM-M Nos.53404 and 53426 of 2024, as common questions of law and facts are involved for adjudication. For the sake of convenience, facts are taken from CRM-M No.53404 of 2024.
2. Prayer in both these petitions filed under Section 483 of BNSS, 2023, is for grant of regular bail to the petitioner(s) namely Jaswinder Singh @ Shinder Singh and Balkaran Singh in FIR No.67 dated 24.05.2016 registered under Sections 302, 323, 435, 427, 148, 149 IPC at Police Station Talwandi Sabo, District Bathinda.



3. As per the prosecution case, on 24.05.2016 at about 10.30 pm, accused persons armed with weapons and members of unlawful assembly, in further prosecution of common object of said assembly, committed murder of Jaswant Singh alias Babbu by causing injuries on his person and even put his motorcycle on fire and thereafter, the FIR (supra) was registered against the petitioners as well as Kewal Singh, Sabli, Gula Singh, Kala Singh son of Janta Singh, Babbu Singh, Kala Singh son of Binder Singh and five unidentified persons.

4. Learned counsel for the petitioner(s) *inter alia* contends that the petitioners are behind the bars for the last more than 05 years and the investigating agency has presented the final report in a cross-case registered vide General Diary No.27 dated 25.05.2016 (Annexure P-2) and challan in cross-version was presented on 01.10.2024 and the same was received by entrustment and charges were framed on 04.01.2025. Learned counsel for the petitioner(s) has produced a copy of the order dated 04.01.2025 passed by learned Additional Sessions Judge, Bathinda, which is taken on record as 'Mark X' and the same reads as follows:-

SC-541-2024

State v. Dilpreet Singh

*Present: Sh. Binni Mittal, APP for State.
Accused Dilpreet Singh, Birbal Singh,
Sarabjeet Kaur, Jaswinder Singh on bail with
counsel Sh. H.S. Mehimi, Advocate.*

Accused Kala Singh @ Gurilla died.

2025:PHHC:016747



Arguments heard. On finding a prima facie case, all the accused are served with charge under Sections 452, 324, 323, 148, 149, 506 IPC. The accused pleaded not guilty and claimed trial.

The present trial is cross-version of another trial titled as State of Punjab v. Kala Singh and others, SC/67/2017, which is pending before this court at defence evidence stage. Both the trials are required to be disposed of simultaneously.

In these circumstances, let the case is adjourned to 10.01.2025 with connected trial and PWs mentioned at serial No. 1 to 4 be summoned for that day.

*Rajiv Kalra (PB0098)
Additional Sessions Judge,
Bathinda*

Date: 04.01.2025

5. Learned counsel for the petitioner(s) further contends that although in FIR case, the prosecution has examined all the witnesses, however, in view of the order dated 04.01.2025, passed by learned Additional Sessions Judge, Bathinda, in cross-case, the trial of the cross-case is yet to commence and not even a single prosecution witness has been examined and the petitioner(s) have undergone actual custody of more than 05 years as under-trial and delay in conclusion of the trial cannot be attributed to the petitioner(s) as they are in judicial custody and further the complainant has not supported the case of the prosecution and he has been declared hostile by the Public Prosecutor.



6. *Per contra*, learned State counsel has filed custody certificates of both the petitioner(s) and status report by way of affidavit of Rajesh Snehi Batta, Deputy Superintendent of Police, Sub-Division Talwandi Sabo, District Bathinda (in CRM-M-53404-2024), today in the Court which are taken on record and he opposes the prayer made by learned counsel for the petitioner(s) on the ground that the petitioner(s) have been specifically named in committing the murder of deceased Jaswant Singh @ Babbu, however, he could not controvert the fact that the petitioner(s) are behind the bars since 09.09.2019.

7. Having heard learned counsel for the parties and after perusing the record of the case, it transpires that the petitioner(s) are behind the bars from the last 05 years, 04 months and 26 days. Investigation is complete. The final report under Section 173 Cr.P.C. was presented before the concerned Court.

8. The foundational concept of the criminal jurisprudence is to ensure speedy trial. The Hon'ble Supreme Court has repeatedly reiterated that right to speedy trial is enshrined in Article 21 of the Constitution of India. Speedy trial would cover investigation, enquiry, trial, appeal, revision and retrial etc. i.e. everything starting with the accusation against the accused and expiring with the final verdict of the last Court.

9. It has further been held in law that if a person is deprived of his liberty under a procedure which is not reasonable, fair, or just, such deprivation would be violative of his fundamental right under



Article 21 of the Constitution of India. The procedure so prescribed must ensure speedy trial for determination of the guilt of such person. Some amount of denial of personal liberty cannot be avoided, but if the period of deprivation pending trial becomes excessively long, the fairness guaranteed by Article 21 of the Constitution of India would come into play.

10. In this regard, reference is being made to the law laid down by the Hon'ble Supreme Court in the context of right to speedy trial under Article 21 of the Constitution of India on the following decision:- *Akhtari Bi Vs. State of M.P., (2001) 4 SCC 355, Surinder Singh Alias Shingara Singh Vs. State of Punjab, (2005) SCC (Crl) 1674, P. Ramachandra Rao Vs. State of Karnataka, (2002) 4 SCC 578, Babu Singh and others Vs. State of U.P., (1978) 1 SCC 579, Takht Singh and others Vs. State of M.P., (2001) 10 SCC 463; Special Leave to Appeal (Crl) No.2356 of 2010, Kushal Singh Vs. State of U.P. (2JJ.) and Fazal Vs. State of Uttar Pradesh, (2012) 5 SCC 752.*

11. In view the discussion above, the present petitions are allowed. Accordingly, without commenting upon the merits of the case, the petitioner(s) namely Jaswinder Singh @ Shinder Singh and Balkaran Singh are ordered to be released on regular bail during pendency of the trial, on their furnishing bail bonds/surety bonds to the satisfaction of Illaqa Magistrate/trial Court.

12. Nothing observed hereinabove shall be construed to be expression of an opinion by this Court on merits of the case. The



learned Court below is directed to proceed with the matter on its own merits, lest it may prejudice the trial.

13. A photocopy of this order be placed on the file of other connected case.

(HARPREET SINGH BRAR)
JUDGE

05.02.2025
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Whether speaking/reasoned:	Yes/No
Whether reportable:	Yes/No