



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

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**CRM-M No.51171 of 2025
Date of decision : 29.9.2025**

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

Present: Mr. Keshav Pratap Singh, Advocate and
Mr. Tarun Hooda, Advocate, for the petitioner

Mr. Gurmeet Singh, AAG, Haryana

Ms. Nirmala Jangra, Advocate, for the complainant

SUMEET GOEL, J. (ORAL)

1. Present 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.169 dated 13.4.2023, under Sections 302, 285, 201, 148, 149 and 120-B of the IPC and Section 25 of Arms Act, 1959 (Sections 201 and 120-B of IPC were added later on), registered at Police Station City Sohna, District Gurugram.

2. The gravamen of the FIR in question is that on 12.04.2023 at about 8.00 AM, complainant (Lalit) alongwith his cousin brother Gyanender Bhola (deceased), in white swift car, came to Neta Farm House at Sohna-Palwal Road. At about 5.40 PM, when both of them came out of the farm house for smoking, then three vehicles, i.e., one black



Scorpio, one white Venue and one white Baleno came, and 15-20 persons alighted from the said vehicles. They encircled the complainant and his cousin brother. Two boys put pistols upon the complainant and made him to sit on the ground. Other co-accused, namely, Bharat and Kapil were armed with axes, Manish and Rohit were armed with hammers, Ajay was having pistol, Lalit alias Lalti, Rajesh (present petitioner) and Azad were having iron rods, and some other 8-10 unknown persons gave fatal injuries to his cousin brother Gyanender Bhola, who succumbed to his injuries.

3. Learned counsel for the petitioner has iterated that the petitioner is in custody since 16.9.2023. Learned counsel has further argued that the petitioner has been falsely implicated into the FIR in question. Learned counsel has further argued that the petitioner is not named in the FIR in question and no recovery has been effected from him. Learned counsel has further submitted that, assuming *arguendo*, the prosecution version is taken to be correct, the role ascribed to the petitioner is that of conspiracy only. Learned counsel has also argued that the trial is procrastinating and the same is not on account of folly of the petitioner. Thus, regular bail is prayed for.

4. Learned State counsel has opposed the present petition by arguing that the allegations raised against the petitioner are serious in nature and thus the petitioner does not deserve the concession of the regular bail. Learned State counsel has further submitted that the petitioner has other FIR(s) registered against him and thus, he ought not to



be extended concession of regular bail. Learned State counsel seeks to place on record the custody certificate dated 23.9.2025, in the Court today, which is taken on record.

5. Learned counsel for the complainant has vehemently opposed grant of regular bail to the petitioner by arguing that there are serious and direct allegations against the petitioner. She has further iterated that in case, the petitioner is released on bail, there is all likelihood that he may intimidate the witnesses as also flee from the process of justice. On the strength of these submissions, dismissal of the petition is entreated for.

6. I have heard counsel for the rival parties and have gone through the available records of the case.

7. The petitioner was arrested on 16.9.2023 wherein after investigation was carried out and challan stands presented on 16.10.2023 initially. Thereafter, supplementary challan was presented on 19.1.2024. Total 55 prosecution witnesses have been cited, but after presentation of supplementary challan, witnesses have swelled to 61, but only 6 have been examined till date. It is thus indubitable that conclusion of the 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.



7.1 As per *zimni* orders passed by the learned trial Court, as brought forth before this Court, it is indubitable that the trial is procrastinating and the petitioner ought not to be saddled with the folly thereof. A perusal of the *zimni* orders further reflect that various prosecution witnesses, including FIR/complainant (Lalit) are not coming forward for examination despite repeated issuance of warrants against him.

7.2. At this juncture, it would be apposite to refer herein a judgment of the Hon'ble Supreme Court in ***Javed Gulam Nabi Shaikh vs. State of Maharashtra and anothers, 2024(3) RCR (Criminal) 494***, which reads thus:

“18. *Criminals are not born out but made. The human potential in everyone is good and so, never write off any criminal as beyond redemption. This humanist fundamental is often missed when dealing with delinquents, juvenile and adult. Indeed, every saint has a past and every sinner a future. When a crime is committed, a variety of factors is responsible for making the offender commit the crime. Those factors may be social and economic, may be, the result of value erosion or parental neglect; may be, because of the stress of circumstances, or the manifestation of temptations in a milieu of affluence contrasted with indigence or other privations.*

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.”*

7.3. As per custody certificate dated 23.9.2025 filed by learned State counsel, the petitioner has already suffered incarceration for a period of 2



years and 7 days. Further, as per the said custody certificate the petitioner is stated to be involved in one more case bearing FiR No.231 of 2021 under Sections 323, 325 of IPC, PS Saran, Faridabad. However, this factum cannot be a ground sufficient by itself, to decline the concession of regular bail to the petitioner in the FIR in question when a case is made out for grant of regular bail *qua* the FIR in question by ratiocinating upon the facts/circumstances of the said FIR. Reliance in this regard can be placed upon the judgment of the Hon'ble Supreme Court in ***Maulana Mohd. Amir Rashadi v. State of U.P. and another, 2012 (1) RCR (Criminal) 586***; a Division Bench judgment of the Hon'ble Calcutta High Court in case of ***Sridhar Das v. State, 1998 (2) RCR (Criminal) 477*** & judgments of this Court in CRM-M No.38822-2022 titled as ***Akhilesh Singh v. State of Haryana***, decided on 29.11.2021, and ***Balraj v. State of Haryana, 1998 (3) RCR (Criminal) 191***.

Suffice to say, further detention of the petitioner as an undertrial is not warranted in the facts and circumstances of the case.

8. 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.

9. 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.

10. Ordered accordingly.

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

(SUMEET GOEL)
JUDGE

29.9.2025
Ashwanii

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