

CRM-M-52211-2025

2025:PHHC:131007



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

CRM-M-52211-2025

Date of decision: September 22, 2025

Krishna Devi

....Petitioner

Versus

State of Haryana

....Respondent

CORAM: HON'BLE MR. JUSTICE SUMEET GOEL**Present:-** Mr. Kartar Singh, Advocate for the petitioner.

Mr. Deepak Kumar Grewal, DAG Haryana.

***********SUMEET GOEL, J. (ORAL)**

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 bearing FIR No.41 dated 06.02.2024, registered for the offences punishable under Section 302 of the Indian Penal Code, 1860 (for short 'IPC') (Section 201 of IPC added later on), registered at Police Station Sadar Sirsa, District Sirsa.

2. The gravamen of the allegations against the petitioner is that on 06.02.2024, a telephonic message was received at P.S. Sadar Sirsa regarding the murder of a youth in village Shahpur Begu. On reaching the spot, Balwinder Singh (complainant) stated that his son Govind was found dead in a pool of blood at their plot where he had stayed overnight to look after cattle. On this statement, FIR under Section 302 IPC was registered. During investigation, Krishna Devi (petitioner herein) was arrested on 08.02.2024.

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In her disclosure, she admitted that she had developed a friendship with the deceased Govind. When her son suspected their relationship, she asked Govind to end contact, but he threatened to expose her. Fearing consequences, she purchased a *kapa*, and on the night of 05.02.2024, after meeting Govind at his plot in village Begu, she killed him with repeated *kapa* blows while he was asleep. Thereafter, she took his two mobile phones, destroyed them, and concealed the weapon and her clothes.

3. Learned counsel for the petitioner has iterated that the petitioner is in custody since 08.02.2024. Learned counsel has further iterated that the petitioner has been falsely implicated into the FIR in question. Learned counsel has iterated that assuming *arguendo*, the prosecution version is taken to be correct, the prime evidence available against the petitioner is that of recovery of an Aadhar Card from the spot and recovery of a *kappa*, which is alleged to have been used for committing offence in question. Learned counsel has iterated that the trial is procrastinating and folly thereof cannot be fastened upon the petitioner. In this regard, learned counsel has placed reliance upon a judgment of the Hon'ble Supreme Court in ***Javed Gulam Nabi Shaikh vs. State of Maharashtra and anothers, 2024(3) RCR (Criminal) 494***, in which, it has been held as under:

“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

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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.”

3.1. Learned counsel has submitted that the petitioner has suffered incarceration for more than 01½ years. Learned counsel has urged that the petitioner is a lady with clean antecedents. 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 seeks to place on record the custody certificate dated 19.09.2025 in the Court today, which is taken on record.

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

6. The petitioner was arrested on 08.02.2024 whereinafter investigation was carried out and challan was presented on 11.06.2024. It is not disputed before this Court that total 18 prosecution witnesses have been cited, out of which only 01 has been examined till date. It is thus, indubitable that conclusion of the trial will take long time. The factual position of the trial proceedings is not disputed by learned State counsel. The rival contentions raised at Bar 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

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indicate the likelihood of the petitioner absconding from the process of justice or interfering with the prosecution evidence.

6.1. The petitioner is a lady aged about 50 years, hence, bail petition ought to be considered in view of proviso to Section 480(2) BNSS. It is pertinent to mention herein that the proviso to Section 480 BNSS, 2023, is *pari materia* with proviso to Section 437 Cr.P.C., 1973. In this regard, it would be apposite to refer herein to a judgment passed by this Court on 14.03.2024 in **CRM-M-11503-2024** titled as '**Ravinder Kaur Vs. State of Punjab**' (dealing with proviso to Section 437 Cr.P.C.), relevant thereof reads as under:

"It would be apposite to refer herein to the dicta of a judgment of the Hon'ble Supreme Court in a case of 'Satender Kumar Antil Vs. Central Bureau of Investigation & Anr., 2022(10) SCC 51', which held as under:

51. Proviso to Section 437 of the Code mandates that when the accused is under the age of sixteen years, sick or infirm or being a woman, is something which is required to be taken note of. Obviously, the court has to satisfy itself that the accused person is sick or infirm. In a case pertaining to women, the court is expected to show some sensitivity. We have already taken note of the fact that many women who commit cognizable offenses are poor and illiterate. In many cases, upon being young they have children to take care of, and there are many instances when the children are to live in prisons. The statistics would show that more than 1000 children are living in prisons along with their mothers. This is an aspect that the courts are expected to take note of as it would not only involve the interest of the accused, but also the children who are not expected to get exposed to the prisons. There is a grave danger of their being inherited not only with poverty but with crime as well.

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58. Section 437 of the Code empowers the Magistrate to deal with all the offenses while considering an application for bail with the exception of an offense punishable either with life imprisonment or death triable exclusively by the Court of Sessions. The first proviso facilitates a court to conditionally release on bail an accused if he is under the age of 16 years or is a woman or is sick or infirm, as discussed earlier. This being a welfare legislation, though introduced by way of a proviso, has to be applied while considering release on bail either by the Court of Sessions or the High Court, as the case may be. The power under Section 439 of the Code is exercised against an order rejecting an application for bail and against an offence exclusively decided by the Court of Sessions. There cannot be a divided application of proviso to Section 437, while exercising the power under Section 439. While dealing with a welfare legislation, a purposive interpretation giving the benefit to the needy person being the intendment is the role required to be played by the court. We do not wish to state that this proviso has to be considered favourably in all cases as the application depends upon the facts and circumstances contained therein. What is required is the consideration per se by the court of this proviso among other factors."

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6.2. As per custody certificate dated 19.09.2025 filed by learned State counsel, the petitioner has already suffered incarceration for a period of 01 year, 07 months and 10 days, & is not shown to be involved in any other FIR(s).

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 her 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 herself on any date before the trial.
- (iv) The petitioner shall not commit any offence while on bail.
- (v) The petitioner shall deposit her passport, if any, with the trial Court.
- (vi) The petitioner shall give her cellphone number to the Investigating Officer/SHO of concerned Police Station and shall not change her 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.

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

11. Since the main case has been decided, pending miscellaneous application, if any, shall also stands disposed off.

(SUMEET GOEL)
JUDGE

September 22, 2025

mahavir

Whether speaking/reasoned: Yes/No

Whether reportable: Yes/No