

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

2025:PHHC:164774



242

CRM-M-53229-2025 (O&M)
Date of decision:27.11.2025

Manish @ Kuku

... Petitioner

Versus

State of Haryana

...Respondent

CORAM: HON'BLE MRS. JUSTICE MANISHA BATRA

Present: Mr. P.S. Sullar, Advocate for the petitioner.

Mr. Neeraj Poswal, AAG, Haryana.

...

MANISHA BATRA, J. (Oral)

Prayer in this petition has been made for grant of regular bail in case arising out of FIR No.0026, dated 14.01.2023, registered under Sections 302, 341, 34 IPC and Section 25 of the Arms Act (offences under Sections 120-B, 201, 216 IPC, Section 27 of the Arms Act and Section 42 of the Prison Act were added and Section 25 of the Arms Act was deleted lateron), at Police Station Gohana City, District Sonapat on the basis of a complaint lodged by complainant – Subhash on 14.01.2023 alleging that his brother Azad, who had gone to their fields near village Naiyawala, on the same day, had been shot at by two unknown youths, who had reached there on a motorbike.

2. After registration of FIR, investigation proceedings were initiated. The petitioner along with co-accused Sumit, Sandeep @ Chhota Saini and Anil Kumar @ Sinta, Deepak, Rahul and Amit was arrested during the course of investigation. Accused Vicky, who was also arrested had

suffered disclosure statement on the basis of which co-accused Sumit was nominated as an accused. He was in custody in connection with some other case. He was joined into the investigation of this case on 17.06.2023. He too suffered disclosure statement admitting his involvement in the crime by hatching a conspiracy with Rahul and the present petitioner. Investigation now stands completed and trial is going on. The petitioner had also filed a petition previously which was dismissed vide order dated 16.09.2024.

3. It is argued by learned counsel for the petitioner that ever since the dismissal of the previous petition, only 02 out of 47 witnesses have been examined. The trial will not be concluded in near future since most of witnesses are yet to be examined. The extended period of his incarceration coupled with the fact that the petitioner was not the assailant of the victim and role attributed to him is that of a conspirator is sufficient to extend benefit of bail to him. Hence, it is urged that the petition deserves to be allowed.

4. Per contra, learned State counsel has argued that no sufficient or new ground for extending benefit of bail to the petitioner has been made out and it is, therefore, urged that the petition does not deserve to be allowed.

5. This Court has heard learned counsel for the petitioner as well as learned State counsel at considerable length and have gone through the record.

6. The petitioner is alleged to have hatched a conspiracy with the co-accused to eliminate the victim Azad, who was suspected by him to have been having a hand in the murder of his uncle Rishipal and in pursuance to that conspiracy, the accused is alleged to have harboured the escape of actual

assailants Vicky and Sandeep and to have engaged them for that purpose. The petitioner is in custody since 13.02.2023. Period of more than 02 years and 09 months have elapsed. However, only 02 out of 47 witnesses have been examined which shows that the trial will not be concluded in near future. Obviously, the trial is delayed and there is no likelihood of the same to conclude in near future. It is well settled proposition of law that prolonged incarceration generally militates against the most precious fundamental right guaranteed under Article 21 of the Constitution and in such cases, when there is delay in conclusion of trial without there being any fault on the part of the accused, he becomes entitled to be released on bail. Since the trial of this case, apparently and evidently is shown to have been delayed, as such, this Court is of the considered opinion that no fruitful purpose would be served by keeping the petitioner in custody any more. It is well settled proposition of law that the bail is the rule and jail is an exception. Keeping in view the above facts and circumstances but without meaning to make any comment on the merits of the case, lest they prejudice the case of either of the parties, the petition is allowed and the petitioner is ordered to be released on bail subject to his furnishing personal/surety bonds to the satisfaction of the trial Court/Duty Magistrate/CJM concerned.

7. Since the main petition has been allowed, pending application, if any, is rendered infructuous.

27.11.2025

harjeet

**(MANISHA BATRA)
JUDGE**

Whether speaking/reasoned
Whether reportable

Yes/No
Yes/No