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2025:PHHC:146056



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IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

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Date of decision: October 27, 2025

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

CORAM: HON’BLE MR. JUSTICE SUMEET GOEL
Present:- Mr. Lakhwinder S. Sidhu, Advocate for the petitioner.
Mr. Amit Kumar Goyal, Additional AG Punjab.
Mr. K.D.S. Sidhu, Advocate for the complainant.

SUMEET GOEL, J. (ORAL)

Present petition has been filed under Section 483 of the Bharatiya
Nagarik Suraksha Sanhita, 2023 (for short ‘BNSS’) (*equivalent to Section 439
of Cr. P.C.*) for grant of regular bail to the petitioner in case bearing FIR No.34
dated 17.07.2023, registered for the offences punishable under Sections 302,
323, 324, 148, 149 of the Indian Penal Code, 1860 (for short ‘IPC’) (Sections
307, 427, 120-B of the IPC added later on), at Police Station Dharamgarh,
District Sangrur.

2. The gravamen of the allegations against the petitioner is that on
17.07.2023, Rajwinder Singh along with his brother Kala Singh had gone out in
a car bearing registration number PB-08AK-4281 in connection with some
domestic work. After completing the work, when they returned and reached the
main gate of their house at about 5:30 p.m., the complainant (Balvir Kaur) went
to open the gate. At that time, Rajwinder Singh @ Raju was driving the car,
and Kala Singh was seated beside him in the front passenger seat. It has been

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alleged that all of a sudden, Gurtej Singh, Kulwinder Singh @ Sunny, Gurwinder Singh (petitioner herein), Happy, Bantu, along with 5–6 unidentified persons, armed with sharp-edged weapons such as swords and *kirches*, attacked Rajwinder Singh @ Raju and Kala Singh. The assailants forcibly dragged both victims out of the car and inflicted multiple injuries on their persons, as a result of which profuse bleeding started from their bodies. Upon the complainant raising an alarm, nearby people gathered at the spot, whereupon the assailants fled from the scene. The injured Rajwinder Singh and Kala Singh were immediately taken to the hospital; however, Kala Singh succumbed to his injuries on the way, while Rajwinder Singh @ Raju was referred to Rajindra Hospital, Patiala for further treatment.

3. Learned counsel for the petitioner has iterated that the petitioner is in custody since 19.07.2023. Learned counsel has iterated that the petitioner has been falsely implicated into the FIR in question. Learned counsel has further argued that version in the FIR, version of PW-Kala Singh (injured) and PW-Balvir Kaur (FIR-complainant) are not in tandem with each other. Learned counsel has iterated that no specific injury has been attributed at the end of the petitioner. Learned counsel has further argued that the petitioner has suffered custody for more than 02 years and 03 months, & is not shown to be involved in any other case. 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 26.10.2025, in the Court today, which is taken on record.

4.1. Learned counsel for the complainant has vehemently opposed the grant of regular bail to the petitioner by arguing that there are direct/ clear

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allegations against the petitioner in a FIR which resulted in murder of one person. Learned counsel has further argued that the complainant-side were extended threats in support of which, a DDR has been registered on 13.09.2025. Thus, dismissal of the present petition is entreated for.

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 19.07.2023 whereinafter investigation was carried out and challan has been presented on 12.10.2023. Out of total 21 cited prosecution witnesses, only 02 have been examined till date.

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.”

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It is not in dispute that private witness, namely, PW-Kala Singh (injured) and PW-Balvir Kaur (FIR-complainant) already stand examined. The testimony of Kala Singh was recorded on 07.04.2025 and the testimony of PW-Balbir Kaur was recorded on 22.07.2025 whereas the DDR in question, at the instance of the complainant-side alleging threats extended to them, was registered on 13.09.2025.

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

6.1. As per custody certificate dated 26.10.2025 filed by learned State counsel, the petitioner has already suffered incarceration for a period of 02 years, 03 months and 04 days, & is not shown to be involved in the other FIR(s).

Suffice to say, further detention of the petitioner as an undertrial is not warranted in the factual milieu 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.

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- (v) The petitioner shall deposit his passport, if any, with the trial Court.
- (vi) The petitioner shall give his cellphone 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.

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

(SUMEET GOEL)
JUDGE

October 27, 2025
mahavir

Whether speaking/reasoned: Yes/No

Whether reportable: Yes/No