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

CRM-M-56707-2024 (O&M)

Date of Decision: 17.02.2025

GURMINDER SINGH @ GURJINDER SINGH @ GORA
...Petitioner

V/S

STATE OF PUNJAB **...Respondent**

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Mr. Ankit Kharbanda, Advocate
for the petitioner.

Mr. Rishabh Singla, AAG Punjab.

HARPREET SINGH BRAR J. (Oral)

1. This is the second petition filed under Section 483 of Bhartiya Nagrik Suraksha Sanhita, 2023 seeking grant of regular bail to the petitioner in case bearing FIR No. 22 dated 19.05.2019 registered under Sections 302 and 34 of Indian Penal Code at Police Station Verowal, District Tarn Taran.

2. The present FIR has been registered on the basis of statement of complainant-Charanjit Singh who submitted that he is a labourer, having three sons. His elder son is namely Gurmeet Singh and then Yudhbir Singh and youngest son is namely Bunty Singh and one daughter is namely Reeta Kaur. All his children are married. His son Bunty Singh was working as a labourer. He further stated that a few days ago, Gurjinder Singh @ Gora (petitioner herein), Yudhbir Singh @ Sukh and Manjinder Singh @ Soni all sons of Randhir Singh and who are members of 'Balmik Kranti Sena'



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Sena' but his son refused for the same. On 19.05.2019, Gurjinder Singh @ Gora, Yudhbir Singh @ Sukh and Manjinder Singh @ Soni entered into a scuffle with his son Bunty Singh without any reason. But with the intervention of the respectable persons, the matter was pacified. However again, at about 9:00 A.M., Gurjinder Singh @Gora armed with *Datar*, Yudhbir Singh @ Sukh armed with *Datar*, Manjinder Singh @ Soni empty handed came towards their street, when his son Bunty Singh was going towards the Gurudwara Sahib from his house. While complainant and his nephew Sarwan Singh son of Balwinder Singh were standing under a Pipal tree, near their house. Manjinder Singh @ Soni raised a *lalkara* to catch hold of Bunty Singh and teach him a lesson for opposing their 'Balmik Kranti Sena' and for not joining the same. Acting upon *lalkara*, Gurjinder Singh @ Gora gave a *Datar* blow on the neck of his son Bunty Singh, while accused Yudhbir Singh @ Sukh gave a *Datar* blow on Bunty Singh, which hit the left side of his face/jaw. Resultantly, Bunty Singh fell down on the ground drenched in blood and he along with his nephew Sarwan Singh rushed towards Bunty Singh by raising an alarm of "Mar-Dita Mar-Dita" due to which the above said accused persons ran away from the spot along with their respective weapons. Later on, Bunty Singh succumbed to his injuries.

3. Learned counsel for the petitioner *inter alia* contends that this is the second petition seeking grant of regular bail to the petitioner and the first petition was dismissed as withdrawn on 07.02.2024. Present petition has been filed on the ground of delay in conclusion of the trial as the

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petitioner is behind the bars since 23.05.2019 and till date the prosecution has not concluded its evidence. The petitioner has already undergone total custody of more than 05 years and 08 months and the prosecution has so far examined only 11 witnesses out of total 24 witnesses cited by the prosecution and 08 witnesses have been given up and delay in conclusion of trial cannot be attributable to the petitioner as he is confined in judicial custody. So further incarceration of the petitioner without there being the prospect of the conclusion of the trial in the near future, would be violative of Article 21 of the Constitution of India. Learned counsel further contends that co-accused namely Manjinder Singh @ Maninder Singh @ Soni has been granted the concession of regular bail by a Co-ordinate Bench of this Court vide order dated 09.11.2022 passed in CRM-M-30330-2022.

4. *Per contra*, learned State counsel filed the custody certificate, which is taken on record and opposes the prayer made by learned counsel for the petitioner on the ground that petitioner is the main accused and he is alleged to have given the *datar* blow on the neck of the deceased son of the complainant. However, he could not controvert the fact that petitioner has already undergone total custody of 05 years 08 months and 24 days as on 16.02.2025 and prosecution has is yet to conclude its evidence.

5. Having heard the learned counsel for the parties and after perusing the custody certificate, it transpires that petitioner is behind the bars since for 05 years 08 months and 24 days as on 16.02.2024 and till date the prosecution has not been able to conclude its evidence. Culpability, if any, would be determined at the time of the trial.



6. 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.

7. 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.

8. 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.***

9. In view of the above and without commenting upon the merits of the case, the present petition is allowed and the petitioner-Gurminder Singh @ Gurjinder Singh @ Gora is ordered to be released on regular bail, subject to his furnishing bail bonds/surety bonds to the satisfaction of CJM/Duty Magistrate concerned.

10. Nothing observed hereinabove shall be construed as expression of opinion of this Court on merits of the case and the trial Court shall proceed without being prejudiced by observations of this Court.

(HARPREET SINGH BRAR)
JUDGE

17.02.2025
Ajay Goswami

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