

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

CRM-M-61038-2024**Reserved on: 03.07.2025****Pronounced on: 04.07.2025****JAGWINDER SINGH**

. . . . PETITIONER

Vs.

STATE OF PUNJAB

. . . . RESPONDENT

CORAM: HON'BLE MR JUSTICE DEEPAK GUPTA

Present: - Mr. Karanjeet Singh Brar, Advocate,
for the petitioner.

Ms. Pratibha Bali, AAG, Punjab.

DEEPAK GUPTA, J.

By way of this petition filed under Section 483 Bharatiya Nagarik Suraksha Sanhita, 2023 [for short 'the BNSS'], petitioner prays for his release on regular bail in case FIR No.5 dated 04.01.2023, registered at Police Station Zirakpur, District SAS Nagar, under Sections 307, 323, 506, 341, 148 and 149 IPC [Sections 302/34, 120B IPC added later on vide rapat No.33 dated 22.02.2023 and offence under Section 307 IPC has been deleted].

2. It is the third petition moved by the petitioner seeking regular bail. The first petition bearing CRM-M-23618-2023 was dismissed by this Court vide order dated 06.09.2023. The second petition bearing CRM-M-5919-2024 was dismissed as withdrawn vide order dated 08.02.2024 (Annexure P3).

3. Status report by way of an affidavit of Shri Jaspinder Singh, PPS, Deputy Superintendent of Police, Zirakpur, District SAS Nagar, on behalf of the State, has already been filed.

4.1 FIR was lodged on the statement of Bahadur Singh (*now deceased*), aged about 72 years, retired Sub Inspector from Wireless Wing

of Police Department, as per which, on 04.01.2023, he was going for morning walk on the outer side of the village. At about 7.45 AM, as he reached near cremation ground, a big luxury car halted in his front and five boys descended from the same, who surrounded him. One of the boys was his co-villager namely, Kulwinder Singh @ Kaku. All of them were holding iron rods and sharp-edged deadly weapons in their hands, who started hurling abuses to him (complainant) and attacked him in life threatening manner. Kulwinder Singh @ Kaku exhorted others not to spare him on that day and then attacked him on his head with sharp edged weapon. As the complainant raised his right hand to save his head, the weapon hit in the centre of his right hand's thumb and fingers, causing deep cut. The other assailants gave several iron rod blows on both his legs, fracturing the same. On shouting of the complainant, several people including his nephew Nirmal Singh reached the spot and he was shifted to Government Medical College & Hospital (GMCH), Sector 32, Chandigarh, where the statement of injured Bahadur Singh was recorded by ASI Chamkaur Singh, who reached there on getting information about the arrival of the injured. It was also disclosed by injured that on the previous date i.e. 03.01.2023, Harvinder Singh @ Binder, the brother of Kulwinder Singh @ Kaku had threatened him to teach a lesson for complaining against his family about Sarpanchi. Bahadur Singh also disclosed the reason for the incident to the effect that he was member Panchayat in the last elections, during which Ravneet Kaur wife of Harvinder Singh @ Binder was the Sarpanch and that he as member of panchayat had made complaints to the authorities about misappropriation done by Ravneet Kaur and that earlier his nephew had been attacked. It was further disclosed by injured Bahadur Singh that attack was on him with an intention to kill by Kulwinder Singh @ Kaku along with his four unknown accomplices, on the provocation of his brother Harvinder Singh @ Binder and that he could identify the assailants, if produced before him.

4.2 Further prosecution case (as noticed from status report) is that on 16.01.2023, Nirmal Singh made a statement to the police to the

effect that he had seen the occurrence, when he was on morning walk on 04.01.2023 and that at that time, Salinder Singh @ Sunder, the father of Kulwinder Singh @ Kaku, & Harvinder Singh @ Binder were exhorting his sons and other unidentified persons to kill Bahadur Singh. At this, Salinder Singh @ Sunder was nominated in the case and Section 120B IPC was added. Bahadur Singh was discharged from GMCH, Chandigarh on 08.01.2023. However, on the same night of 08.01.2023, his condition became critical due to which he was admitted in Alchemist Hospital, Panchkula, where he mostly remained in ICU and on ventilator support and ultimately succumbed to the injuries on 22.02.2023. Postmortem of deceased Bahadur Singh was conducted at Civil Hospital, Dera Bassi on 23.02.2023. Section 302 IPC was added.

4.3 On 25.03.2023, on the identification of witness of the crime namely, Nirmal Singh, Jagwinder Singh (*petitioner herein*) & Pradeep Masih were arrested. They suffered disclosed statement. Iron rod and mobile phone used in the crime were recovered from them.

5.1 It is contended by learned counsel that in the FIR lodged on the statement of Bahadur Singh, except for Kulwinder Singh @ Kaku, petitioner or other assailants are not named. Though statement of alleged eyewitness namely Nirmal Singh was recorded by the police on 16.01.2023, but except for nominating Salinder Singh @ Sunder, and Harvinder Singh @ Binder, said Nirmal Singh did not name the petitioner to be amongst the assailants. Learned counsel contends further that it is after the death of Bahadur Singh on 22.02.2023 that the statement of Nirmal Singh was again recorded on 25.03.2023 and it is for the first time that petitioner was named therein and then arrested.

5.2 Learned counsel for the petitioner further argues that though his earlier bail petition bearing CRM-M-23618-2023 was dismissed on merits by this Court on 06.09.2023, but almost two years have passed since then and now, custody period of the petitioner is more than 2 years and 3 months. Learned counsel has also placed on record copies of various zimini orders passed by the learned trial Court in order to underscore that

after framing of the charges on 11.10.2024, the alleged eyewitness namely, Nirmal Singh and others are being summoned time and again and despite issuance of summons and bailable warrants on various dates, they are not putting in appearance before the Trial Court.

With all these submissions, learned counsel for the petitioner prays for release of the petitioner on bail.

6. Learned State counsel opposes the bail petition by pointing out towards the nature of crime and also contending that there is no change in the circumstances except for the fact that custody period of petitioner has increased.

7. I have considered submissions of both the sides and have appraised the paper-book carefully.

8. It is not in dispute that petitioner is not named in the FIR to be amongst the assailants by deceased Bahadur Singh, on whose statement the FIR was lodged on 04.01.2023. Said Bahadur Singh was alive till 22.02.2023. Though, he remained hospitalized till that time, but there is nothing to show that any effort was made to get the other assailants (*apart from Kulwinder Singh @ Kaku*) identified. Nirmal Singh surfaced as eyewitness, who in his statement made on 16.01.2023 nominated Harvinder Singh @ Binder and Salinder Singh @ Sunder to be the conspirators. In that statement, Nirmal Singh did not name the petitioner to be amongst assailants. It is only on 25.03.2023 i.e. after the death of Bahadur Singh that petitioner was arrested on the identification of Nirmal Singh.

9. Apart from above, as rightly pointed out by learned counsel for the petitioner, charges were framed by the trial Court on 11.10.2024. Matter has been adjourned several times for recording prosecution evidence. However, the most material witness namely, Nirmal Singh along with other witnesses Parminder Singh and Malkiat Singh are not appearing despite repeated summons and bailable warrants, as is evident from zimini orders dated 02.12.2024, 24.01.2025, 18.03.2025, 24.04.2025, 28.05.2025 and 25.06.2025. Custody certificate, as placed on record, indicates that

petitioner is in custody for the last 2 years 3 months and 3 days and he is not involved in any other criminal case.

10. Besides, considering the conduct of the prosecution witnesses, it appears that prosecution may take long time to conclude its evidence.

11. Having noticed all the above facts and circumstances, but without commenting anything further on merits of the case, this petition is allowed. Petitioner is admitted to regular bail on his furnishing requisite bail bonds and surety bonds to the satisfaction of the trial Court/Duty Magistrate concerned, on usual terms and conditions.

Pending application(s), if any, shall stands disposed of.

04.07.2025	(DEEPAK GUPTA)
<i>Vivek</i>	JUDGE
<i>Whether speaking/reasoned?</i>	Yes
<i>Whether reportable?</i>	No