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2025:PHHC:159999



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IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

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Kulwinder Singh @ Kinda

....Petitioner

Versus

State of Punjab

....Respondent

Date of decision: November 18, 2025
Date of Uploading: November 18, 2025

CORAM: HON'BLE MR. JUSTICE SUMEET GOEL

Present:- Mr. P.B.S. Goraya, Advocate,
Mr. S.S. Bhullar, Advocate and
Mr. S.P.S. Sandhu, Advocate for the petitioner.

Mr. Baljinder Singh Sra, Additional AG Punjab.

SUMEET GOEL, J. (ORAL)

Present third 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.15 dated 19.01.2024, registered for the offences punishable under Sections 25(6), (7), (8), 54 & 59 of the Arms Act, 1959 (for short 'Arms Act'), at Police Station City Moga, District Moga.

2. The gravamen of allegations against the petitioner is that Parminder Singh @ Pinda, son of Darshan Singh, and Kulwinder Singh @ Kinda (petitioner herein), son of Baldev Singh, both residents of Buttar Kalan, District Moga, were members of a gang led by the notorious gangster

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Navdeep Singh @ John Buttar, son of Tek Singh, also a resident of Buttar Kalan, District Moga. It is further alleged that the said gangster had supplied a large quantity of arms and ammunition to Parminder Singh and the petitioner. Based on secret information received, it was reported that the accused were present in the parking area behind the District Courts, Moga, in front of the office of the Department of Education, Moga. They were allegedly waiting for someone while seated in a white Hyundai i20 car bearing registration No.DL-2C-AR-4201, and it was suspected that they could be apprehended with a substantial quantity of firearms if a raid was conducted. Acting on this information, a raid was carried out. Both accused—Parminder Singh and Kulwinder Singh (petitioner herein)—were apprehended while attempting to flee in the said i20 vehicle. During the personal search of Parminder Singh @ Pinda, one .32 bore automatic pistol was recovered from his left fold, and another black-coloured .32 bore pistol was recovered from his right fold. Upon unloading, two live cartridges were found in the first pistol and one live cartridge in the second. During the personal search of the petitioner, one country-made .32 bore pistol was recovered from his left fold. Upon unloading, two live cartridges were recovered from one .32 bore pistol and one live cartridge from the second pistol. Further, from the dashboard of the car, officers recovered one country-made .30 bore pistol and one .32 bore revolver. Upon unloading the revolver, two live cartridges were recovered.

3. Learned counsel for the petitioner has iterated that the petitioner is in custody since 19.01.2024. Learned counsel has iterated that the petitioner has been falsely implicated into the FIR in question. Learned counsel has further argued that there is nothing substantive evidence

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available with the prosecution against the petitioner that alleged recovered weapons were used anywhere in the crime. Learned counsel has urged that co-accused of the petitioner has already been granted concession of regular bail by a co-ordinate Bench of this Court, vide order dated 08.10.2025 passed in **CRM-M-42306-2025**. Learned counsel has further urged that the petitioner has suffered incarceration for more than 01 year. 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 17.11.2025, 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 19.01.2024, whereinafter, the investigation was carried out and the challan has been presented on 15.03.2024. Co-accused of the petitioner has been granted concession of regular bail by a co-ordinate Bench of this Court, as aforesaid. Culmination of trial, of-course, will take its own time. The rival contentions raised at Bar given 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.

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6.1. Indubitably, the present petition is the third attempt by the petitioner to secure regular bail. The last bail plea preferred by the petitioner was dismissed as withdrawn on 20.09.2024. However, keeping in view the entirety of the factual matrix of the case in hand; especially, in view of the factum of the petitioner having suffered extended incarceration for more than 01 year and pace of trial; this Court is inclined to affirmatively consider the instant plea for bail. A profitable reference, in this regard, can be made to a judgment of this Court passed in ***CRA-S-2332-2023*** titled as ***Rafiq Khan versus State of Haryana and another***, relevant whereof reads as under:

“10. As an epilogue to the above discussion, the following principles emerge:

I Second/successive regular bail petition(s) filed is maintainable in law & hence such petition ought not to be rejected solely on the ground of maintainability thereof.

II. Such second/successive regular bail petition(s) is maintainable whether earlier petition was dismissed as withdrawn/dismissed as not pressed/dismissed for non-prosecution or earlier petition was dismissed on merits.

III For the second/successive regular bail petition(s) to succeed, the petitioner/applicant shall be essentially/pertinently required to show substantial change in circumstances and showing of a mere superficial or ostensible change would not suffice. The metaphoric expression of seeking second/successive bail plea(s) ought not be abstracted into literal iterations of petition(s) without substantial, effective and consequential change in circumstances.

IV No exhaustive guidelines can possibly be laid down as to what would constitute substantial change in circumstances as every case has its own unique facts/circumstance. Making such an attempt is nothing but an utopian endeavour. Ergo, this issue is best left to the judicial wisdom and discretion of the Court dealing with such second/successive regular bail petition(s).

V In case a Court chooses to grant second/successive regular bail petition(s), cogent and lucid reasons are pertinently required to be recorded for granting such plea despite such a plea being second/successive petition(s). In other words, the cause for a Court having successfully countenanced/entertained such second/successive petition(s) ought to be readily and clearly decipherable from the said order passed.”

6.2. As per custody certificate dated 17.11.2025 filed by learned State counsel, the petitioner has already suffered incarceration for a period of 01 year, 07 months and 06 days. Further, as per the said custody certificate, the petitioner is stated to be involved in other FIR(s). However,

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this factum cannot be a ground sufficient by itself, to decline the concession of regular bail to the petitioner in the FIR in question when a case is made out for grant of regular bail *qua* the FIR in question by ratiocinating upon the facts/circumstances of the said FIR. Reliance in this regard can be placed upon the judgment of the Hon'ble Supreme Court in *Maulana Mohd. Amir Rashadi v. State of U.P. and another, 2012 (1) RCR (Criminal) 586*, a Division Bench judgment of the Hon'ble Calcutta High Court in case of *Sridhar Das v. State, 1998 (2) RCR (Criminal) 477* & judgments of this Court in CRM-M No.38822-2022 titled as *Akhilesh Singh v. State of Haryana*, decided on 29.11.2021, and *Balraj v. State of Haryana, 1998 (3) RCR (Criminal) 191*.

Suffice to say, further detention of the petitioner as 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.
- (v) The petitioner shall deposit his passport(s), if any, with the trial Court.
- (vi) The petitioner shall give his cellphone number(s) to the Investigating Officer/SHO of concerned Police Station and shall not change his cell-phone number(s) without prior permission of the trial Court/Illaq Magistrate.
- (vii) The petitioner shall not in any manner try to delay the trial.

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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

November 18, 2025
mahavir

Whether speaking/reasoned: Yes/No

Whether reportable: Yes/No