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2025:PHHC:154251



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IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

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Date of decision: November 10, 2025

Jagraj Singh

....Petitioner

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MR. JUSTICE SUMEET GOEL

Present:- Mr. Sukhmeet Singh, Advocate for the petitioner.

Mr. Baljinder Singh Sra, Additional AG Punjab.

SUMEET GOEL, J. (ORAL)

Present second 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.52 dated 26.05.2020, registered for the offences punishable under Section 409 of the Indian Penal Code, 1860 (for short 'IPC'), at Police Station Kot Ise Khan, District Moga.

2. The gravamen of the allegations against the petitioner is that complainant, namely Veer Singh (*Sarpanch*), has accused the petitioner of fraudulently withdrawing over ₹40 lakhs by forging the signatures and thumb impressions of the Member(s) of the Gram Panchayat, Village Khosa Kotla, District Moga.

3. Learned counsel for the petitioner has argued that the petitioner is in custody since 24.02.2025. Learned counsel has iterated that the

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petitioner was afforded concession of anticipatory bail earlier by this Court, but he could not avail the said benefit on account of onerous condition of deposit of money/ title deed of land. Learned counsel has argued that the challan already stands presented and conclusion of the trial will take time. Learned counsel has further argued that the trial in question against the petitioner is primarily magisterial in nature. Learned counsel has also argued that the petitioner has been falsely implicated into the FIR in question on account of *panchayat* election related rivalry by the opposite faction. Learned counsel has urged that the case in hand primarily pertains to documentary evidence. Thus, regular bail is prayed for.

4. Learned State counsel has opposed the present petition by arguing that 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 09.11.2025 in the Court today, which is taken on record.

5. I have heard counsel for the parties and have gone through the available records of the case.

6. The petitioner was arrested on 24.02.2025. It is not in dispute before this Court that after culmination of investigation, trial is already in progress. Out of total 26 cited prosecution witnesses, only 08 have been examined till date. Indubitably, the conclusion of trial will take its own time.

6.1. 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:

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“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.”

6.2. The rival contention raised at Bar give rise to debatable issues, which shall essentially 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.

6.3. As per custody certificate dated 09.11.2025 filed by learned State counsel, the petitioner has already suffered incarceration for a period of 08 months and 16 days. Further, as per the said custody certificate the petitioner is stated to be involved in other FIR(s). However, 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

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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*.

6.4. Indubitably, the present petition is the second attempt by the petitioner to secure regular bail. The last bail plea preferred by the petitioner was dismissed as withdrawn on 04.07.2025. However, keeping in view the entirety of the factual matrix of the case in hand; especially, factum of the petitioner having suffered further incarceration for more than 04 months and in view of 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

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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.”

Suffice to say, further detention of the petitioner as an undertrial is not warranted in the facts and circumstances 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, 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.

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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 10, 2025
mahavir

Whether speaking/reasoned: Yes/No

Whether reportable: Yes/No