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IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

CRM-M-63780-2024 (O&M)

Dherender Sandhu ... Petitioner

Vs.

State of Haryana ... Respondent

1.	The date when the judgment is reserved	10.11.2025
2.	The date when the judgment is pronounced	29.11.2025
3.	The date when the judgment is uploaded on the website	29.11.2025
4.	Whether only operative part of the judgment is pronounced or whether the full judgment is pronounced	Full
5.	The delay, if any, of the pronouncement of full judgment, and reasons thereof	Not applicable

CORAM: HON'BLE MRS. JUSTICE MANISHA BATRA

Present: Mr. Rakesh Nehra, Sr. Advocate with
Mr. Sahil Nehra, Advocate for the petitioner.

Mr. Apoorv Garg, Additional Advocate General,Haryana.

Mr. Sartaj Singh Narula, Sr. Advocate with
Mr. Jaskaran Singh, Advocate,
Mr. G.S. Dhillon, Advocate,
Mr. A.S. Sandhu, Advocate and
Ms. Gurpreet Kaur, Advocate for the complainant.

...

Manisha Batra, J. (Oral).

1. This is the second petition as filed by the petitioner under Section
483 of the Bharatiya Nagarik Suraksha Sanhita, 2023 (for short ‘BNSS’)

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seeking grant of regular bail in case bearing FIR No.78 dated 16.12.2020, registered under Sections 148, 149, 302, 307, 323 IPC and Sections 25 and 27 of the Arms Act (offences under Sections 201, 324, 325 IPC and Section 30 of the Arms Act were added later on), at Police Station Munak, District Karnal.

2. The adumbrated facts as emanating from the record are that on 16.12.2020, on receipt of a telephonic information regarding apprehension of some altercation to take place between the members of Kisna Pana of village Gagsina and of members of rival party over some land dispute, a police party headed by SI Kuldeep Singh reached at village Gagsina–Kapro road, where a huge crowd of people was found to be present. On reaching there, dead bodies of two persons, namely, Dilbagh and Parveen were found lying at the spot. Complainant – Virender Singh, who was present there, submitted a written complaint that some land belonging to members of Kisna Pana was abutting the road proceeding from village Gagsina to Kapro and accused Yudhvair, Jasbir, Randhul, Ram Mehar, Dilbagh and Kuldeep had taken possession of the said land, in an illegal manner. On the same day, some respectable members of Kisna Pana including the victims, had reached at the disputed land and were getting the foundation dug through some JCB machine for raising construction of a wall, when the accused persons including the present petitioner accompanied by several other persons reached there. They were armed with weapons and they opened an assault upon the members of the complainant party with their respective weapons after making exhortations. The shots raised with firearms had injured Parveen, Balraj and Dilbagh, who had died at the spot. Other members of their party had also sustained several injuries. The dead

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body of Balraj had already been sent to CHC, Gharonda. After registration of FIR, investigation proceedings were initiated.

3. As per the further allegations, post mortem examination of the dead bodies of the victims, was conducted. During the course of investigation, statements of injured and other witnesses under Section 161 Cr.P.C. were recorded. The petitioner was arrested on 23.01.2021. He moved an application for grant of bail, which was dismissed. The previous petition as filed by him before this Court for grant of regular bail had been disposed as not pressed vide order dated 15.05.2024.

4. It is argued by learned counsel for the petitioner that he has been falsely implicated in this case. He remained in custody from 23.01.2021. A false recovery has been planted upon him. No specific act has been attributed to him. Trial is not going to conclude in the near future as only 8 out of 76 prosecution witnesses have been examined. His continued detention would not serve any purpose. He has not misused the concession of interim bail granted vide order dated 07.01.2025 passed by this Court. With these broad submissions, it is urged that the petition deserves to be allowed.

5. Per contra, learned State counsel assisted by learned senior counsel for the complainant has vehemently argued that there are serious and specific allegations against the petitioner who was an active participant of the unlawful assembly. He had inflicted injuries upon PW7 with his *gandasi*. He is also vicariously liable for the acts with the co-accused. Three persons had succumbed to the injuries sustained at the hands of the petitioner and co-accused in the incident, whereas 13 persons sustained injuries. The complainant

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and PW7 Dhan Singh in their respective sworn depositions have made specific attribution to the petitioner. It is, therefore, urged that the petition does not deserve to be allowed.

6. This Court has heard the rival submissions made by learned counsel for the parties at a considerable length.

7. The petitioner by forming membership of an unlawful assembly with the co-accused and in prosecution of common object thereof, is alleged to have assaulted the members of the complainant party, three of whom had succumbed to the firearm injury sustained by them whereas 13 persons were injured. The allegations prima facie reveal that the members of the petitioner's party were the aggressors. His complicity in the crime also stands prima facie established from the allegations in the FIR as well as from the statements recorded by the material witnesses. PW7 Dhan Singh is categorically shown to have stated that the petitioner had inflicted *gandasi* blows upon him. The petitioner has been linked to the subject crime not only by individual act but with the aid of Section 149 IPC. The most essential ingredients for commission of the offences under this section are that; there must be an unlawful assembly; there must be commission of an offence by any member of that unlawful assembly; that such offence must have been committed in prosecution of the common object of such assembly, that it must be such as the members of the assembly knew to be likely to be committed.

8. It is well settled that even mere presence in the unlawful assembly but with an active mind to achieve the common object, makes a person vicariously liable for the acts of the unlawful assembly. The liability

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of members of the assembly under Section 149 of IPC rests upon the fact whether such person knew beforehand that the offence actually committed was likely to be committed in prosecution of the common object or not and such knowledge can be collected reasonably from the nature of the assembly, the weapon used, the behaviour of the participant(s) at or before the scene of action.

9. In the instant case, the petitioner by forming membership of an unlawful assembly is alleged to have gone to the house of Ram Mehar, and opened an attack upon the members of kishna pana. As per the allegations, he had inflicted injuries upon PW7 Dhan Singh. The allegations prima facie show his clear involvement in the crime while having knowledge that subject offences were likely to be committed in prosecution of common object. The allegations against the petitioner are serious in nature as he along with co-accused stands accused of a heinous crime punishable with capital punishment or life imprisonment. While length of incarceration is a factor that weighs with the Court in considering bail, it cannot overshadow the seriousness of the accusation of murder under Section 302 IPC. The material witnesses are yet to be examined. Reference in this context can be had to the observations made in *Parmod Kumar Saxena Vs. UOI, 2008(63) ACC (SC)*, *Chenna Boyanna Krishna Yadav Vs. State of Maharashtra, (2007) 1 SCC, 242* and *State through CBI Vs. Amaramani Tripathi, 2005(4) RCR (Criminal) 280(SC)*. There is no substantive or specious change in the circumstances from the date of dismissal of the previous petition as filed by

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the petitioner. It is also well settled that there must be drastic change during the period between two applications for the successive application to be allowed, which is not there in this case. It is well-settled proposition of law that grant of bail is a discretionary relief to be granted or denied based on specific facts and circumstance of each case and there cannot be any exhaustive parameters set out for considering the application for grant of bail. The factors such as nature of accusations, severity of punishment if the accusations entail a conviction and nature of evidence in support of accusations are to be seen. That apart, reasonable apprehension of tampering with evidence or threatening the material witnesses is also to be weighed. Frivolity of prosecution should always be considered, and it is only the element of genuineness that has to be considered in the matter of grant of bail.

10. In light of the foregoing legal principles and other circumstances as discussed above, this Court finding no compelling ground to allow this petition. Accordingly, the petition is dismissed.

11. The petitioner, who is on interim bail in pursuance of order dated 07.01.2025, is directed to surrender within a period of one week from today before the learned trial Court, failing which, the learned trial Court shall be at liberty to initiate proper proceedings for securing his presence in the Court.

12. It is clarified that any observation made in this order is only for deciding this petition and shall not influence the outcome of the trial and

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also not be taken as an expression of opinion on merits.

13. Since the main petition has been dismissed, pending application, if any, is rendered infructuous.

29.11.2025
harjeet

(MANISHA BATRA)
JUDGE

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