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2025:PHHC:172178



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IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

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Rakesh Kumar alias Lala

....Petitioner

versus

State of Haryana

....Respondent

Date of decision: December 10, 2025

Date of Uploading: December 10, 2025

CORAM: HON'BLE MR. JUSTICE SUMEET GOEL

Present:- Ms. Vaishali Kamboj, Advocate for the petitioner.

Mr. Gurmeet Singh, AAG Haryana.

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 FIR No.270 dated 25.07.2025, for the offence punishable under Sections 110, 115 & 351(2) of the Bharatiya Nyaya Sanhita, 2023 (for short 'BNS') (Section 109 of BNS added later on), registered at Police Station Kunjpura, District Karnal.

2. The gravamen of allegations against the petitioner is that on 23.07.2025, the complainant, namely, Jatin, along with his uncle Sandeep, was standing outside his house when the petitioner, arrived and struck him on the head with a sharp-edged weapon before fleeing the scene. The complainant and his uncle attempted to chase him, but he managed to escape

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into his house. According to the complainant, the petitioner had earlier lodged a false case against them about four years ago, which was later found to be baseless. Consequently, a *Calendra* under Section 182 IPC was filed against the petitioner.

3. Learned counsel for the petitioner has argued that the petitioner is in custody since 28.07.2025. Learned counsel has iterated that the petitioner has been falsely implicated into the FIR in question as there is impending criminal litigation between the petitioner and complainant-side. Learned counsel has further argued that injury attributed to the petitioner has been found to be simple by the doctor, but on the opinion of office of the District Attorney, Section 109 of the BNS (earlier Section 307 of IPC) has been invoked against the petitioner. Learned counsel has further argued that offence under Section 109 of the BNS (erstwhile Section 307 of IPC) is not made out in the factual *milieu* of the case in hand. Learned counsel has urged that the petitioner is a man with clean antecedents. 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 has further submitted that earlier also, a *calendra* was filed against the petitioner as he is in habit of breaking law repeatedly. The State counsel seeks to place on record custody certificate dated 09.12.2025 in the Court today, which is taken on record.

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

6. The petitioner was arrested on 28.07.2025 whereinafter investigation was carried out and challan has been presented on 14.10.2025. Total 15 prosecution witnesses have been cited, and it is not in dispute that none of the witnesses have been examined till date. Indubitably, conclusion of the trial will take long time. The rival contention raised at Bar give rise to debatable issues; including as to whether offence under Section 109 of the BNS (erstwhile Section 307 of IPC) is made out or not in the factual *milieu* of the case in hand; 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.

6.1. As per custody certificate dated 09.12.2025 filed by learned State counsel, the petitioner has already suffered incarceration for a period of 03 months and 14 days & is not shown to be involved in any other FIR(s).

6.2. Indubitably, the present petition is the second attempt by the petitioner to secure regular bail. The last bail plea was dismissed as withdrawn on 30.09.2025. However, keeping in view the entirety of the factual matrix of the case in hand; especially, factum of the petitioner having suffered extended incarceration for another more than 02 months & 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

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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.”

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.

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- (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 cell-phone 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.

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.

(SUMEET GOEL)
JUDGE

December 10, 2025
mahavir

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