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2025:PHHC:155052



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IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

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Date of decision: November 11, 2025

Kirandeep Singh alias Kirna

....Petitioner

versus

State of Punjab

....Respondent

CORAM: HON'BLE MR. JUSTICE SUMEET GOEL

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

Mr. Jaypreet Singh, DAG Punjab.

SUMEET GOEL, J. (ORAL)

Present 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.11 dated 22.02.2025, for the offence punishable under Sections 115(2), 333, 351(3) & 3(5) of the Bharatiya Nyaya Sanhita, 2023 (for short 'BNS') (Sections 109, 117(2) & 238 of BNS added later on), registered at Police Station Sudhar, District Ludhiana.

2. The gravamen of allegations against the petitioner is that on 16.02.2025 at about 8:00 PM, when upon hearing a noise at the door, son of the complainant (Darshan Singh) went to check, then he saw Kirandeep Singh @ Kirna (petitioner herein) armed with a *Toki*, Kulwinder Singh @ Kinda armed with a *Toki*, Lakhwinder Singh @ Lakha, and Gurwinder

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Singh standing in front of their gate. Gurwinder Singh was sitting on a motorcycle outside the house, while the remaining three forcibly pushed the door and entered inside. Immediately, co-accused, namely, Kirnandeep Singh @ Kirna (petitioner herein) struck son of the complainant on the head with a *Toki*, causing him to cry out in pain. Then, another co-accused, namely, Kulwinder Singh @ Kinda struck his son from behind with the reverse side of the *Toki*, hitting him on the back. The son of the complainant collapsed to the ground, and blood started oozing from his head. Meanwhile, co-accused, namely, Lakhwinder Singh @ Lakha raised a *lalkara*. When the complainant rushed to help his son, Lakhwinder Singh caught hold of him and attacked with a *Toki*, hitting his left wrist. Kirnandeep Singh (petitioner herein) again assaulted the complainant with a *Toki*, this time on his chest. Lakhwinder Singh further gave him fist blows on his face and on the side of his stomach, causing deep injuries. On hearing the commotion, daughter-in-law of the complainant raised a *raul*. At this, all the accused fled the spot with their weapons on the motorcycle, threatening them before leaving.

3. Learned counsel for the petitioner has argued that the petitioner is in custody since 01.03.2025. Learned counsel has iterated that provision of Section 109 of the BNS is not made out against the petitioner as the weapon alleged to have been used by him is *toki* (a sharp edged weapon), whereas, MLR reflects that injury is blunt in nature. Learned counsel has submitted that the petitioner has been falsely implicated into the FIR in question. Learned counsel has further argued that the petitioner has suffered incarceration for more than 08 months. Thus, regular bail is prayed for.

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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. The State counsel seeks to place on record custody certificate dated 10.11.2025 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 01.03.2025 whereinafter investigation was carried out and challan has been presented on 24.05.2025. Total 16 prosecution witnesses have been cited, and it is not in dispute that none has been examined till date. Indubitably, conclusion of the trial will take long time.

At this juncture, it would be apposite to refer herein to a judgment of the Hon'ble Supreme Court in *Javed Gulam Nabi Shaikh vs. State of Maharashtra and anothers, 2024(3) RCR (Criminal) 494*, in which, it has been held as under:

“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.

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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.”*

The rival contention raised at Bar give 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.

6.1. As per custody certificate dated 10.11.2025 filed by learned State counsel, the petitioner has already suffered incarceration for a period of 08 months and 08 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 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*

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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 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 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.

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10. Nothing said hereinabove shall be construed as an expression of opinion on the merits of the case.

(SUMEET GOEL)
JUDGE

November 11, 2025
mahavir

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