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**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

**CRM-M-63106-2025 (O&M)
Date of decision: 28th November, 2025**

Nikhil

... Petitioner

Versus

State of Haryana

...Respondent

CORAM: HON'BLE MS. JUSTICE RUPINDERJIT CHAHAL

Present: Mr. Satyawan Singh Nain, Advocate
for the petitioner.

Ms. Shaveta Sanghi, DAG, Haryana.

RUPINDERJIT CHAHAL, J. (ORAL)

1. Prayer in the instant petition filed under Section 483 of the Bharatiya Nagarik Suraksha Sanhita, 2023 is for grant of regular bail pending trial to the petitioner in case FIR No. 22 dated 29.01.2024 registered under Sections 147, 148, 149, 323, 302 and 120-B of IPC and Sections 25 and 27 of Arms Act, 1959 at Police Station Sector 37, Gurugram.
2. Brief facts as per the prosecution case are that the petitioner along with co-accused committed murder of one Akash. Hence the present FIR.

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3. Learned counsel for the petitioner contends that the petitioner has been falsely implicated in the present case. He further contends that neither the petitioner was named in the FIR nor any specific role has been attributed to him, rather he has been named on the disclosure statement of the co-accused. Apart from the disclosure statement, there is no other evidence to connect the petitioner with the offence in question and it is a trite law that disclosure statement of the co-accused during his custodial interrogation is not admissible. He further submits that during the test identification parade and in their deposition before the learned trial Court, the complainant as well the alleged eye-witnesses failed to identify the petitioner. He also argues that the complainant/eye witnesses along with material witnesses have turned hostile. To lend force to his contention, he has drawn the attention of this Court to the statement of PW- 1 to PW-7 (Annexure P-2 to P-8) made before the trial Court, wherein none of them have supported the case of the prosecution and failed to identify the petitioner as the assailant. He further submits that the petitioner is in custody since 02.03.2024. The investigation in the case is complete, challan stands presented and charges have also been framed. He further submits that there are total 35 prosecution witnesses and out of which, only 08 have been examined till date and as such, the trial will take a long time to conclude and no useful purpose would be served by keeping him behind bars. Therefore, it is urged that the petition deserves to be allowed.

4. On the other hand, learned State counsel has filed the custody certificate of the petitioner, which is taken on record. She has vehemently opposed the prayer for grant of bail by submitting that the offence committed



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by the petitioner is serious in nature. She has further submitted that the petitioner has got recovered the knife used in the commission of crime and the FSL report, *prima facie* shows his involvement in the alleged crime. She further submits that the petitioner is involved in multiple other cases meaning thereby, he is a habitual offender. However, she has not controverted the fact that the complainant as well as the eye witnesses including the material witnesses have turned hostile.

5. Having heard learned counsel for the parties at length and after perusing the record of the case, it is evident that the petitioner is in custody for last more than 01 year 08 months; investigation is complete; challan stands presented; charges framed; complainant/eye-witnesses and other material witnesses have not supported the case of the prosecution before the trial Court; out of 35 witnesses, only 08 have been examined till date and the trial may take a long time to conclude, no useful purpose would be served by detaining him in further custody. His continued detention without the prospect of the trial being concluded in the near future would be violative of his rights under Article 21 of the Constitution of India.

6. In this regard, reference is being made to the law laid down by the Hon'ble Supreme Court in the context of right to speedy trial under Article 21 of the Constitution of India on the following decision:- ***Akhtari Bi Vs. State of M.P., (2001) 4 SCC 355, Surinder Singh Alias Shingara Singh Vs. State of Punjab, (2005) SCC (Crl) 1674, P. Ramachandra Rao Vs. State of Karnataka, (2002) 4 SCC 578, Babu Singh and others Vs. State of U.P., (1978) 1 SCC 579, Takht Singh and others Vs. State of M.P., (2001) 10 SCC 463; Special Leave to Appeal (Crl) No.2356 of 2010, Kushal Singh Vs.***



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State of U.P. (2JJ.) and Fazal Vs. State of Uttar Pradesh, (2012) 5 SCC 752.

7. More recently, in the case of *Dataram Singh vs. State of Uttar Pradesh & Anr. 2018(2) R.C.R. (Criminal) 131*, the Hon'ble Apex Court has held that keeping somebody behind the bars, till his guilt is proved, for an indefinite period amounts to infringement of her right to life and liberty, as enshrined under Article 21 of Constitution of India and is against the principle "*bail is a rule*" and "*jail is an exception*".

8. As regards the submission of learned State counsel that petitioner is involved in other/one more criminal case(s), reference is placed upon the judgment of the Hon'ble Supreme Court in *Maulana Mohd. Amir Rashadi Vs. State of U.P. and another, 2012 (2) SCC 382* in which, it is held that the facts and circumstances of the present case are to be seen while deciding a bail application and the bail application of the petitioner cannot be rejected solely on the ground that the petitioner is involved in other/another case(s). The relevant portion of the said judgment is reproduced herein-below:-

"As observed by the High Court, merely on the basis of criminal antecedents, the claim of the second respondent cannot be rejected. In other words, it is the duty of the Court to find out the role of the accused in the case in which he has been charged and other circumstances such as possibility of fleeing away from the jurisdiction of the Court etc."

9. In view of the above, the present petition is allowed and the petitioner is ordered to be released on bail on his furnishing bail bonds/surety bonds to

the satisfaction of the learned trial Court/Duty Magistrate/CJM concerned. It is clarified that nothing stated herein shall be construed as an expression of opinion on the merits of the case.

(RUPINDERJIT CHAHAL)
JUDGE

28th November, 2025
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<i>Whether speaking/reasoned</i>	<i>Yes/No</i>
<i>Whether reportable</i>	<i>Yes/No</i>