



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

221

CRA-S No.3482 of 2025

Date of decision : 10.12.2025

Date of uploading : 10.12.2025

Balwan

.....Appellant

Versus

State of Haryana and another

.....Respondents

CORAM: HON'BLE MR. JUSTICE SUMEET GOEL

Present: Mr. S.S. Sahu, Advocate, for the appellant

Ms. Priyanka Sadar, Senior DAG, Haryana

Mr. Narender Kaajla, Advocate, for respondent no.2

SUMEET GOEL, J. (ORAL)

1. Present appeal has been filed against the order dated 18.10.2025 passed by the Additional Sessions Judge, Fatehabad, whereby the application for grant of regular bail to the appellant in FIR No.321 dated 15.12.2023 under Sections 147, 148, 149, 302, 341, 342 and 506 of IPC and Section 3(2)(V) of Schedule Castes and Schedule Tribes (Prevention of Atrocities) Act, 1989 (Later on Sections 147, 148, 149, 120-B of IPC deleted and Section 34 of IPC added and challan presented for the offences under Sections 323, 302, 342, 365, 506 and 34 of IPC and Section 3(2)(V) of SC/ST Act, registered at Police Station Bhattu Kalan, Tehsil and District Fatehabad, has been dismissed.

2. The case set up in the FIR in question (as set out in the present appeal by the appellant) is as follows:-



I, Ganga Ram S/o Dei Chand S/o Nikku Ram Sodh, resident of village Thuiyan, age 55 years, mobile no.9728045072, stated that I am resident of the aforesaid address and I do labour work and belong to the Scheduled Caste community. I have three sons the eldest is Guldeep, the second is Kaluram, aged about 28 years, and the youngest is Dholuram. All my three sons are unmarried and live with me. My son Kaluram was taking medicine for a mental disorder from Government Hospital, Hisar. On 09-12-2023, my son Kaluram was standing outside our house when, at about 8:00 PM, Om Parkash s/o Khajan Singh Malhaan, resident of Thuiyan, came there in a drunken condition and started abusing my son Kaluram with filthy language. My son Kaluram stopped Om Parkash from abusing, upon which Om Parkash went towards his house. After some time, Om Parkash s/o Khajan Singh Malhan, Yogesh and Rahul sons of Om Parkash, Krishan s/o Sher Singh Malhan, and Davinder alias Joga s/o Basau Malhan, all residents of Thuyiann, came holding sticks and lathis in their hands. At that time, I was also present at my house. As soon as they arrived, they suddenly attacked my son Kaluram. Om Parkash hit my son Kaluram on the waist with the lathi in his hand. Krishan struck my son Kaluram's right arm with the stick in his hand. Yogesh hit Kaluram's left arm with the lathi in his hand. Davinder hit him with the stick on his legs. Rahul hit Kaluram on his right shoulder with a stick. My son Kaluram fell on the ground. All of them gave many blows on the hands, legs, waist, and shoulders of Kaluram. Thereafter, Om Parkash, Krishan, Yogesh, Rahul and Davinder dragged my son Kaluram to the house of Balwan s/o Leela Ram, resident of Thuyian, where Balwan s/o Leela Ram, holding a stick, Savitri wife of Balwan, and Ajay s/o Balwan (both holding sticks) were present. Om Parkash, Krishan, Yogesh, Rahul, Davinder, Balwan, Savitri and Ajay together tied the hands and legs of my son Kaluram and, after tying, took him inside the room, where all of them together beat my son Kaluram with sticks and lathis. My son Kaluram raised cries of "save me, save me." On hearing the cries, I, my brother Tulsiram, and many villagers came running. Seeing us coming, Om Parkash, Krishan, Yogesh, Rahul, Davinder, Balwan, Savitri and Ajay all ran away from the spot along with their sticks and lathis, while threatening that "today Kaluram has survived; if we get another chance, we will kill him." The reason for the enmity is that, when my son Kaluram stopped Om Parkash from abusing him, Om Parkash, Krishan, Yogesh, Rahul, Davinder, Balwan, Savitri and Ajay beat him without any reason. I and the members of my family took my injured son Kaluram home that day. On the next day, as the pain of the injuries increased, I arranged for a conveyance and took my son Kaluram to the Government Hospital, Bhattu Kalan for treatment, where the doctor dressed his wounds and referred him to MAMC Agroha for higher treatment. I then took my son Kaluram to MAMC Agroha for treatment, where he was under treatment, and during treatment, on the night of 14-12-2023, he died. Om Parkash, Krishan, Yogesh, Davinder, Rahul, Balwan, Savitri and Ajay inflicted injuries on my son Kaluram without any cause. Strict legal action should be taken against them. Statement written, read over, understood and found correct. Sd/- LTI (Ganga Ram) Attested Nisha, Police Station Bhattu Kalan.'

3. Learned counsel for the appellant has argued that the appellant is in custody since 16.12.2023. Learned counsel has further submitted



that no specific role has been attributed to the appellant and omnibus role has been ascribed to him. Learned counsel has further argued that the appellant has been falsely implicated into the FIR in question. Learned counsel has further submitted that there is a long impending list of prosecution witnesses but all the material prosecution witnesses stand examined. Learned counsel has further submitted that even in the testimony of the eye-witness/complainant, no specific injury has been attributed to the appellant. Learned counsel has further submitted that the appellant is a man with clean antecedents. Thus, regular bail has been prayed for.

4. Learned State counsel has filed status report by way of affidavit of Kulwant Singh, HPS, Deputy Superintendent of Police (HQ, Crime & Traffic), Fatehabad, District Fatehabad in Court today. The same be kept on record. Copy thereof has been furnished to learned counsel for the appellant

4.1 Raising submissions in tandem with the said status report, learned counsel has opposed the present petition by arguing that the allegations raised are serious in nature and thus the appellant does not deserve the concession of the regular bail. Learned State counsel seeks to place on record custody certificate dated 9.12.2025 in Court, which is taken on record.

4.2 Learned counsel appearing for respondent no.2/complainant has argued that there is clear/cogent evidence available against the appellant.

Learned counsel has further submitted that as many as 16 injuries have



been inflicted upon the deceased, and therefore, it cannot be said at this juncture that the appellant has not participated in the offence. Learned counsel has further submitted that beatings were given to the deceased in the house of the appellant by tying his hands and legs by the appellant alongwith others. On the strength of these submissions, dismissal of instant bail is prayed for.

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

6. The appellant was arrested in the present case on 16.12.2023 whereinafter challan stands presented in the Court on 14.3.2024. Total 32 prosecution witnesses have been cited, out of which 5 have been examined and 6 have been given up. At this juncture, it would be apposite to refer herein to a judgment passed by the Hon'ble Supreme Court in ***Criminal Appeal No.2787 of 2024*** titled as ***Javed Gulam Nabi Shaikh vs. State of Maharashtra and another***, decided on 03.07.2024; relevant whereof reads as under:-

“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.”

6.1 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 appellant absconding from the process of justice or interfering with the prosecution evidence.

6.2 As per custody certificate dated 9.12.2025 filed by learned State counsel, the appellant has already suffered incarceration for a period of 01 year, 11 months and 25 days & is not shown to be involved in any other case.

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

7. In view of above, the present appeal is allowed. Appellant 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 appellant shall remain bound by the following conditions:-

- (i) The appellant shall not mis-use the liberty granted.
- (ii) The appellant shall not tamper with any evidence, oral or documentary, during the trial.
- (iii) The appellant shall not absent himself on any date before the trial.
- (iv) The appellant shall not commit any offence while on bail.
- (v) The appellant shall deposit his passport, if any, with the trial Court.
- (vi) The appellant 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/Illaq Magistrate.



(vii) The appellant 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 appellant.

9. Ordered accordingly.

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

(SUMEET GOEL)
JUDGE

10.12.2025
Ashwanii

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