



CRM-M-66607 of 2025

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

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CRM-M-66607 of 2025
Date of Decision: 03.12.2025

Varinder Singh @ Mithu

....Petitioner

Versus

State of Punjab

....Respondent

CORAM: HON'BLE MS. JUSTICE RUPINDERJIT CHAHAL

Present: Mr. Vinod K. Kaushal, Advocate for the petitioner.

Mr. Amritpal Singh Gill, DAG, Punjab.

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 to the petitioner in case FIR No.168 dated 03.06.2021 registered under Sections 307, 379-B and 34 of IPC and Section 25 of the Arms Act, 1959 (Section 27 of the Arms Act added and Section 25 of the Arms Act deleted later on), at Police Station Kamboj, District Amritsar.
2. Brief facts of the present case are that the petitioner in connivance with other co-accused fired gun-shots towards one Harjit Singh, who is working as Security Guard in Shiva Filling Station, with an intention to kill him and also tried to snatch his rifle. Hence, the present FIR.
3. Learned counsel for the petitioner contends that the petitioner has been falsely implicated in the present case. He argues that the petitioner was neither named in the FIR nor has any concern with the alleged offence

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and initially, the FIR in question was registered against unknown person. He further argues that the petitioner was nominated in the case only on the basis of suspicion that too in the supplementary statement made by the complainant on 11.10.2023 after a long delay of more than 2½ years of registration of the FIR, casting serious doubt on the prosecution story. He further argues that if the prosecution version is taken to be true, even then no specific role has been attributed to the present petitioner. He further argues that injured-Harjit Singh, complainant and other material witnesses have not supported the case of the prosecution and have been declared hostile. To lend force to his contention, he has drawn the attention of this Court to the statement of the eye-witness i.e. complainant-Ramesh Kumar (Annexure P-3), statement of Chander Kant @ Chander Manoj (Annexure P-4), statement of Parambir Singh (son of the victim) (Annexure P-5) and statement of Harjit Singh (victim) (Annexure P-6), respectively, made before the trial Court wherein none of them have supported the case of the prosecution and have not identified the petitioner to be the person who gave gun-shot injury to the victim and snatched his rifle. The petitioner is in custody since 15.11.2023 and nothing is to be recovered from him. The investigation in the case is complete, challan stands presented and charges have also been framed. He further submits that there are total 28 prosecution witnesses and out of them, only 05 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. Notice of motion.



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5. Learned State counsel, who has appeared on advance notice of the petition, has filed the custody certificate of the petitioner, which is taken on record. He has vehemently opposed the prayer for grant of bail by submitting that the offence committed by the petitioner is serious in nature. He argues that the petitioner in connivance with other co-accused had attacked the victim-Harjit Singh and snatched his rifle. However, he has not controverted the fact that the victim, complainant and other material witnesses have not supported the case of the prosecution and have been declared hostile. He has further submitted that the petitioner is also involved in other cases meaning thereby he is a habitual offender.

6. 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 the last more than 02 years; investigation is complete; challan stands presented; charges framed; victim, complainant and other material witnesses have not supported the case of the prosecution and have been declared hostile, out of 28 witnesses, only 05 have been examined till date; the complicity of the petitioner is a matter of trial, and will take a long time to conclude. Thus, 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.

7. Reliance is placed upon a judgment in the case of ***Dataram Singh vs. State of Uttar Pradesh & Anr. 2018(2) R.C.R. (Criminal) 131***, wherein Hon'ble Apex Court has held that keeping somebody behind the bars, till his guilt is proved, for an indefinite period amounts to infringement



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of his 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

03.12.2025

D.Bansal

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