



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

213

CRM-M No.69210 of 2025

Date of decision : 12.12.2025

Date of uploading : 12.12.2025

Jitender @ Jacky

.....Petitioner

Versus

State of Haryana

.....Respondent

CORAM: HON'BLE MR. JUSTICE SUMEET GOEL

Present: Mr. Sanjeev Majra, Advocate, for the petitioner

Ms. Priyanka Sadar, Senior DAG, Haryana

SUMEET GOEL, J. (ORAL)

1. 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.854 dated 24.9.2017 under Sections 393, 307 and 34 of IPC and Sections 25 of Arms Act, 1959 registered at Police Station Jhajjar.

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

'To SHO Sahab Police Station, Jhajjar sir it is requested that I Gopal Krishan Arya S/o Sh. Niranjan Dass am permanent resident of H.No. 317, Sector 28, Faridabad. I am working as GM in P. Dass forging private Ltd. Today I was going from Kalanaur to my house at Faridabad. When at around 8:30 pm I reached near railway crossing of village Dhaur, the gate of railway crossing was closed I alighted from my vehicle No. HR-99ZP-2633 Honda WR-V for passing urine and started passing urine near path with road. When I came back near my vehicle after passing urine, two



young boys earned with pistols were seen come in towards my vehicle who pushed me and started firing. A shot hit at the driver's window of my car. I started raising cries chorchor due to fear. Due to the noise of fire shot and my cries, the drivers of the vehicles standing there at the railway crossing (as it was closed) alighted from their vehicles. On seeing these people, both the young boys ran on the other side of the railway crossing. When I saw carefully, one of the young boys was hobbling by left leg. That I have absolute suspicion that one of the boys was hit with the bullet in his leg in their firing. The boy who was hobbling was wearing a deep color cap, having light beard. Legal action be taken against those who have tried to kill me to snatch my vehicle. Gopal Krishan Arya S/o Late Niranjana Dass, R/o House. No. 317, Sector-28, Faridabad. Police action yesterday on 23.09.2017 a VT was received in the Police Post from Control Room, Jhajjar that on Beri Road, Near Railway Crossing, Dhaur, firing was committed upon a car driver. On this information I, ASI along with C. Sunil 1638 reached the spot where above mentioned Gopal Krishan Arya was present. Who after consultation presented a complaint to me ASI wherein offence under Section 393/307/34 of IPC and Section 25, 54, 59 of Arms Act was found to have been made out.'

3. Learned counsel for the petitioner has argued that the petitioner was initially arrested on 15.10.2017 wherein after he was granted regular bail on 20.11.2018. He continued to appear before the concerned Court till January 2020 and thereafter, jumped bail on 22.1.2020. Later on he was arrested on 18.3.2023 and is in continuous custody since then. Learned counsel has further submitted that the petitioner could not appear in Court in time due to circumstances beyond his control. Learned counsel has further submitted that, in any case, all the prosecution witnesses now stand examined and thus, there is no chance of the petitioner tampering with the same. Thus, regular bail is prayed for.

4. Learned State counsel has opposed the present petition by arguing that the allegations raised are serious in nature and thus the



petitioner does not deserve the concession of the regular bail. Learned State counsel seeks to place on record custody certificate dated 11.12.2025 in Court, which is taken on record.

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

6. It is not in dispute that initially the petitioner was arrested on 15.10.2017 whereinafter he was granted the concession of regular bail on 20.11.2018. The petitioner is stated to have been appearing regularly in the concerned Court till January 2020 whereinafter he has jumped bail. It would not be out of place to record that now all the prosecution witnesses stand recorded. The very premise for the continued incarceration of the petitioner is significantly attenuated. The apprehension of the petitioner influencing or tampering with the prosecution witnesses, a common ground for denial of bail, is rendered largely moot in such circumstances. As the venerable legal maxim goes '*Cessante ratione legis, cessat ipsa lex*'- when the reason for the law ceases, the law itself ceases-duly encapsulates within its ambit, the factual milieu of the instant case. The primary rationale for pre-trial detention, securing the integrity of the prosecution's case and ensuring the accused's presence at trial, is substantially diminished when the evidentiary phase of the prosecution is virtually complete. Furthermore, it is a cardinal principle of criminal jurisprudence that the right to a fair trial is paramount, an indispensable facet of which is the accused's opportunity to present a robust defense.

Although the right to lead defence by an accused is regulated by Section



233 of Cr.P.C, *nonetheless*, it is one of the most valuable rights. A criminal trial is not a one-sided affair, it embodies the adversarial system where both the prosecution and the defense must be afforded an equal, if not greater, opportunity to substantiate their respective cases. To effectively exercise this inalienable right to lead defense evidence, the physical liberty of the accused is often an essential factor. A person confined to custody faces considerable impediments in consulting with legal counsel, gathering defense witnesses, and preparing their strategy. Denial of liberty at this advanced stage, when the prosecution's evidentiary edifice is almost complete, can severely cripple the defense, thereby striking at the very root of a fair trial. *Audi alteram partem* -hear the other side- is a fundamental dictate of natural justice, and denying bail when there's no palpable risk of witness tampering would be to render this maxim nugatory. At this juncture, it would be apposite to refer herein to a judgment passed by the Hon'ble Supreme Court in '*Gudikanti Narasimhulu and others versus Public Prosecutor, High Court of Andhra Pradesh*', 1978 AIR (SC) 429, relevant part thereof reads as under:

"11. We must weight the contrary factors to answer the test the reasonableness, subject to the need for securing the presence of the bail applicant. It makes sense to assume that a man on bail has a better chance to prepare of present his case than one remanded in custody. And if public justice is to be promoted, mechanical detention should be demoted."

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

6.2 As per custody certificate dated 11.12.2025 filed by learned State counsel, the petitioner has already suffered incarceration for a period of 01 year, 7 months and 23 days. As per the said custody certificate, the petitioner is stated to be involved in 2 more cases/FIRs. Indubitably, the antecedents of a person are required to be accounted for while considering a regular bail petition preferred by him. 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 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/Illaq 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

12.12.2025
Ashwanii

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