



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

222

CRM-M-5404-2026(O&M)

Date of decision: 05.02.2026

Dikshant

...Petitioner

VERSUS

State of Haryana

...Respondent

CORAM : HON'BLE MR. JUSTICE VINOD S. BHARDWAJ

Present :- Mr. Amitabh Tewari and Mr. Satvik Bansal, Advocates
for the petitioner.

Mr. Paras Talwar, Sr. DAG, Haryana.

VINOD S. BHARDWAJ, J. (Oral)

CRM-5095-2026

Allowed, as prayed for, subject to all just exceptions. Amended
bail petition is taken on record. Registry is directed to do the needful.

Main case

The instant second petition has been filed under Section 483 of the Bharatiya Nagarik Suraksha Sanhita, 2023 for grant of regular bail to the petitioner in case bearing FIR No.247 dated 07.10.2022 registered under Sections 307, 34 of the Indian Penal Code, 1860 and Section 25 of the Arms Act, 1959 [later modified to Section 302, 34, 120-B of IPC and Section 25(1-B)(a) and 27(1) of the Arms Act, 1959 vide chargesheet dated 18.01.2023] at Police Station New Colony, District Gurugram.

2. The FIR in the present case has been registered on the statement of Devidayal pertaining to the attack on his son, namely, Nitin Thareja (since deceased). The same reads thus:-

“...I am a resident of the above address and do my household work at home and I am staying at the above address along with my family on 6-10-22 at around 09 At 15 PM, my son Nitin Thareja alias Murali Pajabi, aged 32 years, was present in the

street outside the main gate of his house. I was also present at home. During that time, three boys came riding on a scooter in the street in front of our house, who attacked my son Nitin. All three together fired bullets from pistols at Taneja and made a fatal attack on Nitin Taneja. During the attack, I killed my son Nitin Thareja. Saw a person who had bullets on his chest, waist and stomach and after hearing the sound of bullets, people started gathering at the spot in the neighborhood. Seeing the people, the three boys ran away from the spot on a scooter towards Basai Road, Gurugram. The three boys were killed. The name of one of them is Sunny. the name of the boy is not known from the aunty person, after that my son Nitin Thareja alias Murali Punjabi was found unconscious With the help of people from the neighborhood, they took me in a private car to Government Hospital, Sector 10. Gurugram for treatment. They referred my son Nitin Dhareja from Sector 10 Hospital. After that, we brought my son to Medata Hospital, Gurugram for treatment. Those three boys Together they committed a deadly attack by firing bullets from pistols. Please take the strictest possible legal action against the three scooty riders. I have recorded my statement to you, which is correct.”

3. Learned counsel appearing on behalf of the petitioner contends that the incident in question is stated to have taken place on 06.10.2022 but the FIR got registered on 07.10.2022. He further contends that as per the medical evidence available on record, the injured Nitin Thareja remained unconscious from the time of the incident till 09.10.2022 and eventually succumbed to the injuries sustained by him. The case of the prosecution is woven around a dying declaration stated to be made by Nitin Thareja, while in hospital, to the police official. He, however, vehemently contends that the aforesaid dying declaration is inherently suspect in view of the specific medical evidence on record which substantiates that the deceased-Nitin Thareja remained continuously unconscious from the time of the incident till

the time he passed away and thus any possibility of the deceased getting any dying declaration recorded is highly improbable. Even as per the said dying declaration, the role attributed to the petitioner is only to the extent that the assailants namely, Sunny and Monty (who fired the shot on the deceased-Nitin Thareja) were on a scooty which was being driven by the petitioner herein and they escaped on the said scooty. The recovery of the said scooty has been effected from the petitioner and no other overt act has been attributed to him. He thus contends that the petitioner has been nominated as an accused in the aforesaid case, at best, with the aid of Sections 120-B/34 IPC and not as a principal offender. It is further submitted that there is no evidence on record to establish that the petitioner had any enmity or any motive whatsoever to eliminate the deceased Nitin Thareja. Besides, the petitioner has clean antecedents and is not involved in any other case. He further submits that the petitioner has already undergone an actual custody of 03 years and 03 months and only 08 out of 28 witnesses have been examined so far. It is further argued that so far as the eye-witness Devidayal is concerned, he has since then passed away, hence, there is no other evidence that may link the petitioner with the commission of the offence.

4. Learned State Counsel on the other hand contends that the name of the petitioner cropped up in the dying declaration that was given by the deceased-Nitin Thareja to the police officials. He, however, does not dispute the clean antecedents of the petitioner, period of custody as well as the present stage of trial.

5. I have heard learned counsel appearing on behalf of the respective parties and have gone through the documents appended along with the present petition.

6. Taking into consideration the period of custody already undergone by petitioner i.e. 03 years and 03 months coupled with the fact that only 08 out of 28 witnesses have been examined so far, hence, the trial shall take long in its conclusion alongwith the fact that arguable issues with respect to the admissibility and validity of the dying declaration shall arise during the course of the trial and further bearing in mind that the attribution against the petitioner being only to the effect that the assailants were sitting on the scooty driven by him, I deem it appropriate to allow the present petition.

7. The instant petition is *allowed* and the petitioner is ordered to be released on regular bail on his furnishing requisite bail bond/surety bond to the satisfaction of the trial Court/Duty Magistrate, concerned.

8. It is made clear that the petitioner shall not extend any threat and shall not influence any prosecution witnesses in any manner directly or indirectly.

9. The observation made hereinabove shall not be construed as an expression on the merits of the case and the Trial Court shall decide the case on the basis of available material.

10. Pending application(s), if any, shall stand disposed of.

05.02.2026

Sumit Gusain

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

(VINOD S. BHARDWAJ)
JUDGE