



IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M No.7854 of 2026 (O&M)

Reserved on: 20.03.2026

Date of Decision: 25.03.2026

Himanshu

.....Petitioner

Versus

State of Haryana

..... Respondent

CORAM: HON'BLE MR.JUSTICE SURYA PARTAP SINGH

Present: Mr. Anshuman Dalal, Advocate for the petitioner.

Ms. Deepali Verma, AAG, Haryana.

SURYA PARTAP SINGH, J. (Oral):

This is first petition for bail, filed by the petitioner under Section 483 of the 'Bharatiya Nagarik Suraksha Sanhita 2023'. This petition pertains to a case arising out of FIR No.156 dated 28.04.2025, for the commission of offence punishable under Sections 127(6), 61(2), 103(1), 238(a), 315, 61(2) and 3(5) of 'Bharatiya Nyaya Sanhita 2023', and Section 25(1-B)(a), 27/29 of Arms Act, Police Station Sampla, District Rohtak.

2. Briefly stating the facts emerging from record are that the FIR of this case came into being at the instance of 'Yogesh', hereinafter being referred to as 'complainant' only. It was stated by the above named complainant that his younger brother 'Ajay' had entered into an agreement for the sale of, *ad measuring* one killa, land to 'Deepanshu' and for the above said purpose he had visited 'Tehsil Office Sampala' on 30.04.2025. According to complainant thereafter his brother 'Ajay' left his car and mobile phone near the water house



of his village and got missing. By virtue of above mentioned complaint the complainant had requested for the search of his missing brother.

3. It is the case of the prosecution that on basis of above mentioned statement formal FIR of this case was lodged on 28.04.2025, for the commission of offence punishable under Section 127(6) of 'Bharatiya Nyaya Sanhita 2023', hereinafter being referred to as 'BNS' only. According to prosecution subsequently, i.e. on 22.06.2025 the complainant moved another application before the police wherein he stated that in the enquiry made by him at his own level he had come to know that 'Sumit' and 'Bhupender' used to visit his brother, and that they might have killed his brother and disposed of his dead body for grabbing the money, received as sale consideration on the sale of land i.e. Rs.1,30,00,000/-.

4. According to prosecution in view of above mentioned suspicion 'Sumit' and 'Bhupender' were interrogated and they suffered a disclosure statement, pursuant to which the dead body of 'Ajay' buried by them was recovered. It is the case of the prosecution that on the basis of subsequent disclosure statement suffered by 'Bhupender' a sum of Rs.7,80,000/- was recovered from his house and he demarcated the place where he had shot the deceased 'Ajay'.

5. As per prosecution in the above mentioned disclosure statement the accused 'Bhupender' also nominated 'Irfan' as co-accused and 'Irfan' was arrested and on interrogation he suffered a disclosure statement, pursuant to which spade (kassi) which was used to bury the dead body of 'Ajay' was recovered.



6. The prosecution has further alleged that on 28.06.2025 the accused 'Sumit' was interrogated and he suffered a disclosure statement, pursuant to which a pistol, a cartridge and currency notes of Rs.7,00,000/- were recovered and in his disclosure statement the name of another accused namely 'Bablu' cropped-up, who, too, was joined in the investigation and he suffered a disclosure statement.

7. According to prosecution in view of his disclosure statement the accused 'Bablu' identified the spots where victim 'Ajay' was killed, and also the spot where his dead body was buried. The prosecution has alleged that from the possession of accused 'Bablu' Rs.1,70,000/- was recovered.

8. It is the case of the prosecution that in his disclosure statement the accused 'Sumit' had disclosed that he had received Rs.50,00,000/- out of which he spent Rs.20,00,000/- in the construction of house and Rs.5,00,000/- to meet his personal expenses. The above named accused also disclosed that remaining Rs.25,00,000/- were given by him to his brother 'Himanshu'. As per prosecution, pursuant to above mentioned disclosure statement the accused 'Himanshu' was arrested, who on interrogation, suffered a disclosure statement, wherein he had stated that he had spent Rs.25,00,000/-, received by him from his brother 'Sumit' on the construction of his house. The prosecution has alleged that the original Aadhar Card of deceased 'Ajay' was recovered from the possession of 'Himanshu'.

9. With regard to facts of the instant case the observation in the case of 'Surender Kumar Khanna Vs. Intelligence Officer Directorate of Revenue Intelligence' 2018(3) SCC Online SC 757, are relevant, wherein it has been



held by the Hon'ble Supreme Court of India that the disclosure statement of co-accused is inadmissible against another accused, as the disclosure statement is not a substantive piece of evidence against other accused.

10. Similar principle has been laid down by the Hon'ble Supreme Court of India in the case of 'Preet Kamal Vs. State of Punjab', 2018(4) RCR (Criminal) 938, wherein it has been held that the disclosure statement of an accused can be used only against the person making the same, and not against the co-accused.

11. In 'Tofan Singh Vs. State of Tamil Nadu', 2021(4) SCC 1 also, it has been observed by the Hon'ble Supreme Court of India that confessional statement of accused recorded under Section 67 of NDPS Act cannot be admitted in evidence, as a confession.

12. Heard.

13. The record has been perused carefully.

14. A perusal of record shows that the entire prosecution case is based upon the disclosure statement suffered by the co-accused 'Bhupender', 'Sumit' and 'Himanshu'. The disclosure statement of 'Bhupender' and 'Sumit' reveals that in the commission of offence of murder of 'Ajay' four persons namely 'Bhupender', 'Sumit', 'Irfan' and 'Bablu' were involved. The only role attributed to the petitioner is that he had received a sum of Rs.25,00,000/-, a part of the proceed of crime, and that from the possession of petitioner the original Aadhar Card of deceased was recovered. There is nothing on record to show that either in the conspiracy or in the preparation or at the time of commission of offence there was involvement of the petitioner.



15. In view of above, it is hereby observed that following are the relevant factors which are required to be taken into consideration for a decision in the present petition:-

- i) that prima facie, there is no direct nexus of the petitioner with the commission of crime, and the only link, between the commission of crime and the petitioner, is the recovery of Aadhar Card of deceased from the possession of petitioner;
- ii) that the above mentioned fact in itself is, too, unnatural to convince a prudent mind. There could have been no occasion for the petitioner to retain the Aadhar Card of the deceased in his custody. In every prudent possibility the recovery of Aadhar Card from the possession of petitioner is a planted recovery;
- iii) that even the cash amount has not been recovered from the possession of petitioner, which weakens the alleged link between the commission of crime and the petitioner;
- iv) that no weapon of offence or any other evidence has been recovered from the possession of petitioner;
- v) that the petitioner is already in custody for a period of almost seven months;
- vi) that the investigation in this case is already complete and nothing has been left to be recovered from the possession of the petitioner;
- vii) that the trial of the case is not likely to be concluded in near



future;

- viii) that the detention of the petitioner in judicial lock up is not likely to serve any purpose;
- ix) that there is nothing on record to show that if released on bail, the petitioner is likely to tamper with the evidence, or influence the witnesses;
- x) that there is nothing on record to show that if petitioner is released on bail, he will not participate/co-operate in the trial.

16. In the present case, the principles of law laid down by the Hon'ble Supreme Court in the case of 'Dataram versus State of Uttar Pradesh and another', (2018) 3 SCC 22, are relevant, wherein it has been observed that "a fundamental postulate of criminal jurisprudence is the presumption of innocence, meaning thereby that a person is believed to be innocent until found guilty. However, there are instances in our criminal law where a reverse onus has been placed on an accused with regard to some specific offences but that is another matter and does not detract from the fundamental postulate in respect of other offences. Yet another important facet of our criminal jurisprudence is that the grant of bail is the general rule and putting a person in jail or in a prison or in a correction home (whichever expression one may wish to use) is an exception. Unfortunately, some of these basic principles appear to have been lost sight of with the result that more and more persons are being incarcerated and for longer periods. This does not do any good to our criminal jurisprudence or to our society. There is no doubt that the grant or denial of bail is entirely the discretion of the judge considering a case but even so, the



exercise of judicial discretion has been circumscribed by a large number of decisions rendered by this Court and by every High Court in the country. Yet, occasionally there is a necessity to introspect whether denying bail to an accused person is the right thing to do on the facts and in the circumstances of a case”.

17. The principles laid down by the Hon’ble the Supreme Court of India in the case of ‘Satender Kumar Antil v. Central Bureau of Investigation’ (2022) 10 SCC 51 are also relevant in this case. In the abovementioned case, it has been observed that “the rate of conviction in criminal cases in India is abysmally low. It appears to us that this factor weighs on the mind of the Court while deciding the bail applications in a negative sense. Courts tend to think that the possibility of a conviction being nearer to rarity, bail applications will have to be decided strictly, contrary to legal principles. We cannot mix up consideration of a bail application, which is not punitive in nature with that of a possible adjudication by way of trial. On the contrary, an ultimate acquittal with continued custody would be a case of grave injustice”.

18. Recently, in the case of ‘Tapas Kumar Palit Vs. State of Chhattisgarh’, 2025 SCC Online SC 322, the Hon’ble Supreme Court of India has observed that “if an accused is to get a final verdict after incarceration of six to seven years in jail as an undertrial prisoner, then, definitely, it could be said that his right to have a speedy trial under Article 21 of the Constitution has been infringed”. It has also been observed by the Hon’ble Supreme Court of India in the abovementioned case that “delays are bad for the accused and



extremely bad for the victims, for Indian society and for the credibility of our justice system, which is valued. Judges are the masters of their Courtrooms and the Criminal Procedure Code provides many tools for the Judges to use in order to ensure that cases proceed efficiently”.

19. To elucidate further, this Court is conscious of the basic and fundamental principle of law that right to speedy trial is a part of reasonable, fair and just procedure enshrined under Article 21 of the Constitution of India. This constitutional right cannot be denied to an undertrial prisoner, as mandated by Hon’ble Apex court in ‘Balwinder Singh versus State of Punjab and another’ 2024 SCC Online SC 4354.

20. Taking into consideration the cumulative effect of all the aforesaid factors, it is hereby held that the petitioner is entitled for the concession of bail, and that the present petition deserves to be allowed.

21. Accordingly, without commenting anything on the merits of the case, the present petition is hereby **allowed**. The petitioner is hereby ordered to be released on bail on furnishing personal bond and surety bond(s) to the satisfaction of learned trial Court. However, the abovesaid benefit shall be subject to following conditions:-

- i) that the petitioner shall not directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of the case, so as to dissuade him from disclosing such facts to the Court or to any other authority;
- ii) that the petitioner shall at the time of execution of bond, furnish



the address to the Court concerned and shall notify the change
in address to the trial Court, till the final decision of the trial;
and

iii) that the petitioner shall not leave India without prior permission
of trial Court.

22. It is, however, made clear that any observation made hereinabove
is only for the purpose of deciding the present petition and the same shall have
no bearing on the merits of the case.

(SURYA PARTAP SINGH)
JUDGE

25.03.2026
Manoj Bhutani

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