



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

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CRM-M-8335-2026 (O&M)
Date of decision : 09.04.2026

Nitish @Nitish Kumar @Gulli

..... Petitioner

VERSUS

State of Punjab

..... Respondent

CORAM: HON'BLE MR. JUSTICE SURYA PARTAP SINGH

Present : Mr. Daljeet Singh Kahlon, Advocate for the petitioner.

Mr. B.N.S. Marok, Advocate and
Ms. Geeta Khanna, Advocate for the complainant.

Mr. Rohit Bansal, Sr. DAG Punjab.

SURYA PARTAP SINGH, J. (oral)

This petition is the first petition for bail, filed by the petitioner under Section 483 of 'the Bharatiya Nagrik Suraksha Sanhita', 2023. It has been filed with regard to a case arising out of FIR No.20 dated 11.02.2023, for the commission of offence punishable under Sections 302, 364, 148, 149 [challaned under Sections 302, 364, 323, 379-B, 201 and 34] of Indian Penal Code, 1860, Police Station Police Commissionerate Jalandhar, District Jalandhar .

2. The above-mentioned FIR came into being in response to a complaint of Captain Mohan Singh, hereinafter being referred to as 'complainant' only. It was stated by the above-named complainant that his son, Swatantarjit Singh alias Satta, aged about 35 years, was working in



Sabzi Mandi, Jalandhar, and his duty was to issue slips, at the entry gate, for the carts entering the compound. According to complainant, Nitish Kumar Gulli (the petitioner herein) used to visit the market, and a dispute had arisen between Nitish Kumar Gulli and his son. As per complainant, on that day, he came to know that his son had been killed. In his above-mentioned complaint, the complainant further alleged that he was sure that his son Swatantarjit Singh alias Satta was killed by Nitish Kumar Gulli along with his partner Rahul Sabharwal and two/three other persons.

3. Heard.

4. It has been contended on behalf of petitioner that the petitioner is already in custody for last more than three years, one and a half month. It has also been contended by learned counsel for the petitioner that the other co-accused, namely Himanshu Rajdev and Rahul, have already been accorded the benefit of bail. As per learned counsel for the petitioner, the eye-witness Mukesh Kumar has not supported the prosecution case in his deposition and that against him, the father of the deceased has moved an application under Section 319 CrPC, praying for implicating him as an accused in this case.

5. In addition to above, it has also been contended on behalf of the petitioner that the petitioner has already suffered prolonged incarceration, and that the trial is taking place at a snail's pace. According to learned counsel for the petitioner, as many as 32 persons have been arrayed as witnesses in the list, by the prosecution, and that recording of statements of such a large number of witnesses is likely to consume a lot of time.



6. The learned State Counsel has filed custody certificate of the petitioner. The same be taken on record.

7. The learned State Counsel has argued that in the present case, the complainant himself had disclosed that his son was killed by Nitish Kumar Gulli (the petitioner herein), Rahul Sabharwal and two or three other persons. It has been further argued by learned State Counsel that during the course of investigation, the role of the petitioner has been specifically defined and it has been found that at the time of commission of offence, he was armed with an iron rod and inflicted injuries on the arms & legs of the deceased.

8. Heard.

9. The record has been perused carefully.

10. A perusal of record shows that in the present case, following are the relevant factors which are required to be taken into consideration, for the decision in the present petition: -

- i) that as per custody certificate, the petitioner has already suffered a prolonged incarceration for being in custody for a period of more than three years, one and a half month;
- ii) that the benefit of bail has already been accorded to the co-accused, namely Himanshu Rajdev and Rahul Sabharwal;
- iii) that the trial is not likely to be completed in near future as thirty two prosecution witnesses have been cited in the list,, and only three have been examined so far;
- iv) that nothing has been left to be recovered from the possession of petitioner;
- v) that the detention of the petitioner in judicial lock-up is not likely to serve any purpose;



- vi) that there is nothing on record to show that if released on bail, the petitioner may tamper with the evidence or influence the witnesses; and
- vii) that there is nothing on record to show that if released on bail, the petitioner will not participate/cooperate in the trial.

11. In the present case, the principles of law laid down by the Hon'ble Supreme Court of India in the case of "Dataram versus State of Uttar Pradesh and another", 2018(2) R.C.R. (Criminal) 131, 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”.

12. The principles laid down by the Hon’ble the Supreme Court of India in the case of ‘Satender Kumar Antil Vs. Central Bureau of Investigation and Another’, (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”.

13. 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”.

14. Therefore, 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 the accused as mandated by Hon’ble Apex court in “Balwinder Singh versus State of Punjab and Another”, 2024 SCC Online SC 4354.

15. If the cumulative effect of all the abovementioned factors, involved in the instant case, is taken into consideration, it leads to a conclusion that the petitioner is entitled for the benefit of bail, and that the present petition deserves to be allowed.

16. 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 his furnishing personal bond and surety bond(s) to the satisfaction of learned trial Court, subject to the 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 to disclose 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 the trial Court.

(SURYA PARTAP SINGH)
JUDGE

09.04.2026

Vinod

Whether speaking / reasoned	Yes/No
Whether Reportable	Yes/No