

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

2026:PHHC:044427



CRM-M-8924-2026 (O&M)

Nasir @ Naseer

... Petitioner

Vs.

State of Haryana

... Respondent

1.	The date when the judgment is reserved	17.03.2026
2.	The date when the judgment is pronounced	20.03.2026
3.	The date when the judgment is uploaded on the website	20.03.2026
4.	Whether only operative part of the judgment is pronounced or whether the full judgment is pronounced	Full
5.	The delay, if any, of the pronouncement of full judgment, and reasons thereof	Not applicable

CORAM: HON'BLE MRS. JUSTICE MANISHA BATRA

Present: Mr. Ankit Yadav, Advocate for the petitioner.

Ms. Himani Arora, DAG, Haryana.

...

Manisha Batra, J. (Oral).

1. The instant one is the fourth petition as filed by the petitioner seeking benefit of regular bail in case arising out of FIR No.79, dated 21.04.2022, registered under Sections 147, 149, 323, 341, 406, 427 and 506 IPC (offence under Section 302 IPC was added lateron), at Police Station

Bahin, District Palwal. His previous petitions have been dismissed as withdrawn.

2. The aforementioned FIR was registered on the basis of complaint submitted by complainant – Ali Jaan, alleging that he had purchased a motorbike bearing registration No.HR-52-C-1827 in the year 2020. Accused Nisar had borrowed that motorcycle from him but did not return the same by making one excuse or the other. On 14.04.2022, accused Nasir had come to the house of a co-villager, Hurmat on the same motorbike. The complainant came to know about this fact and asked Nisar to return his motorcycle. Instead of doing so, he started hurling abuses to the complainant and extended threats. He by forming an unlawful assembly with the co-accused came to his house and starting throwing stones and bricks. The household articles kept inside the house of the complainant including his motorbike were damaged. His brother and father sustained injuries and were rushed to the hospital for treatment. Initially, a case under Sections 147, 149, 323, 341, 406, 427 and 506 IPC was registered. Injured Imrat succumbed to the injuries during the course of treatment on 05.05.2025. Offence under Section 302 of IPC was added.

3. During the course of investigation, the petitioner was also nominated as an accused and was arrested on 10.06.2022. He suffered disclosure statement and got recovered one iron rod used at the time of occurrence. Investigation now stands completed.

4. It is argued by learned counsel for the petitioner that he has been falsely implicated in this case. Most of the co-accused are on bail. There is delay of 07 days in lodging of the FIR. He is in custody for a period

of over 03 years and 08 months. The material witness Shehzad has turned hostile. The trial will take considerable time to conclude as on allowing of an application under Section 319 Cr.P.C. for summoning of additional accused, a *de novo* trial has started and none witness has examined thereafter. He has clean antecedents. His prolonged incarceration militates against his fundamental right as guaranteed under Article 21 of the Constitution of India. It is, thus, argued that he deserves to be extended the benefit of bail.

5. Status report has been filed. Learned State counsel has argued that the allegations against the petitioner are serious in nature. There are chances of his absconding or committing similar offences, if extended benefit of bail. It is further argued that the instant one being the successive petition as filed by the petitioner and there being no substantive or drastic change in the circumstances, is not even maintainable. It is, therefore, argued that the petition does not deserve to be allowed.

6. This Court has heard the rival submissions made by learned counsel for the parties.

7. So far as the question of maintainability of the petition is concerned, it may be mentioned that an accused has a right to make successive applications for grant of bail, and it is the duty of the Court, while entertaining such a subsequent bail application, to consider the reasons and grounds on which the earlier bail petition was rejected. The fresh grounds which persuade the Court to take a view different from the one taken in the earlier application are also required to be recorded. Reference in this regard can be made to ***Prasad Shrikant Purohit v. State of Maharashtra (2018) 11 SCC 458***, wherein it was so observed by Hon'ble Supreme Court.

8. The petitioner is alleged to have formed membership of an unlawful assembly with the co-accused and in prosecution of common object thereof, had assaulted the members of the complainant party. The allegations make out a *prima facie* case for commission of subject offences against him. However, he has remained in custody for a period of 03 years and 08 months. This factor, in the opinion of this Court, is a ground to move for bail afresh. The Hon'ble Apex Court has observed in a catena of cases that an accused cannot be kept in custody for an indefinite period of time, and the bail application can be considered on its own merits even if it is filed repeatedly. It has also been held that every day spent in custody can provide a new cause of action for filing a bail application under certain circumstances. This principle is a part of the broader approach emphasizing that law prefers bail over jail, aiming to balance the right of the accused with the requirements of the criminal justice system. Prolonged detention itself is a ground for reconsideration of bail since settled proposition of law is that detention prior to trial should not become punitive. It is also well settled proposition of law that prolonged incarceration generally militates against the most precious fundamental right guaranteed under Article 21 of the Constitution and in such cases, when there is delay in conclusion of trial without there being any fault on the part of the accused, he becomes entitled to be released on bail. Since the trial of this case, apparently and evidently is shown to have been delayed, as such, this Court is of the considered opinion that no fruitful purpose would be served by detaining the petitioner in custody. It is also well settled proposition of law that the bail is the rule and jail is an exception and that pre-trial incarceration should not be a replica of post-conviction

sentencing.

9. Keeping in view the above facts and circumstances but without meaning to make any comment on the merits of the case, this Court is of the considered opinion that a case for release of the petitioner on bail is made out. Accordingly, the petition is allowed and the petitioner is ordered to be released on bail subject to his furnishing personal as well as surety bonds to the satisfaction of the learned Chief Judicial Magistrate/trial Court/Duty Magistrate concerned.

10 Since the main petition has been allowed, pending application, if any, is rendered infructuous.

20.03.2026

harjeet

(MANISHA BATRA)
JUDGE

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