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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M No.11587 of 2026

Mohd. Adil ... Petitioner

Versus

State of Haryana ... Respondent

1.	The date when the judgment is reserved	20.05.2026
2.	The date when the judgment is pronounced	22.05.2026
3.	The date when the judgment is uploaded on the website	22.05.2026
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. Abhishek Kumar Advocate and
Mr. AVS Parmar, Advocate,
for the petitioner.

Mr. Neeraj Poswal, AAG, Haryana,
for the respondent-State.

MANISHA BATRA, J.

1. The instant one is the second petition as filed by the petitioner under Section 483 of the Bharatiya Nagarik Suraksha Sanhita,

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2023 (For short “BNSS”) seeking regular bail in case arising out of FIR No.274 dated 29.06.2023 initially registered under Sections 148, 149, 307, 323, 506 and 120-B of IPC (Section 302 of IPC was added and Sections 148, 149, 307, 323, 506 and 120-B of IPC were deleted) and Section 25 of Arms Act, 1959 at Police Station Hathin, District Palwal, Haryana, on the allegations that on 29.06.2023, the persons named in the complaint had formed an unlawful assembly and in prosecution of common object thereof, had extended beatings to Naif, brother of the complainant Yahuda Khan and one of them namely, Asad had fired a shot with a countrymade pistol upon the victim Naif whereas Shahid had pelted stones over him and then all the assailants had fled away. The victim Naif succumbed to his injuries and died on 03.07.2023. Offence under Section 302 of IPC read with Section 34 of IPC was added during the course of investigation. Twelve persons named in the FIR were found to be innocent whereas the present petitioner and co-accused Wasid Ali were arraigned as accused. The petitioner was arrested on 01.07.2023. His previous petition bearing CRM-M-35992-2024 had been dismissed by this Court vide order dated 01.08.2024.

2. It is argued by learned counsel for the petitioner that his previous petition had been dismissed about 01 year and 09 months back. There has not been much progress in the trial as only 04 out of 27 prosecution witnesses have been examined so far. There are no chances of conclusion of trial in near future. Each day spent by him in custody has furnished a fresh ground to the petitioner to seek concession of bail. Even

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otherwise, he was not named in the FIR and it was one Asad who was alleged to be the assailant of the victim but was declared to be innocent subsequently. He has been in prolonged incarceration for a period of more than 02 years and 10 months which militates against his fundamental right to liberty and of speedy trial. It is, thus, argued that he deserves to be released on bail.

3. Per contra, learned State counsel while relying upon the status report has vehemently argued that the petition is not maintainable as it is a successive petition. During the course of investigation, the complicity of the petitioner in the subject crime had been established. It was found that though he was not named in the FIR but infact, he was called by the complainant Yahuda Khan and the victim at the spot when a scuffle was taking place between Asad and themselves. The above named Asad and other persons named in the FIR were infact implicated by the complainant Yahuda Khan due to personal enmity and they were not involved in the occurrence. The location of mobile phones of the petitioner and others were collected and his presence at the spot was established. On sufficient evidence having been found against the petitioner, he was arrested in this case. He had reached at the spot with a countrymade pistol and cartridge and had fired a shot with the same with intent to kill the members of rival party. However, the bullet shot by him had hit on the head of the victim causing fatal injury. It is submitted that the antecedents of the petitioner are not clean. He was the actual assailant but had not been named by the complainant only because of

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his affinity with him. It is, therefore, stressed that keeping in view the gravity of the allegations as levelled against the petitioner, he does not deserve to be extended benefit of bail.

4. This Court has considered the rival submissions.

5. The petitioner was not named in the FIR and had been nominated as accused during the course of investigation on the allegation that he had reached at the spot on the asking of the complainant himself and a shot fired by him with a pistol had hit the victim resulting into his homicidal death. There are no chances of conclusion of trial as only 04 out of 27 witnesses have been examined so far and even the complainant has not appeared to record his statement. Though the allegations make out a prima facie case for commission of subject offence as against the petitioner, however, he has suffered incarceration for a period of more than 02 years and 10 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 rights of the accused with the requirements of the criminal justice system. Prolonged detention itself is a ground for reconsideration of bail since the settled principle of law

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is that detention prior to trial should not become punitive. It is 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 keeping the petitioner in custody any more. Accordingly, the petition is allowed and the petitioner is ordered to be admitted to bail subject to his furnishing personal as well as surety bonds to the satisfaction of learned trial Court/CJM/Duty Magistrate concerned. However, it will be open for the prosecution to apply for cancellation of bail in case the petitioner is found involved in any other subsequent case and if it appears that it is on account of any act and conduct of the petitioner that further delay is being caused in the conclusion of the trial and further subject to his abiding by the following conditions:-

- (i) The petitioner will not tamper with evidence during trial.
- (ii) he will appear before the trial Court on each and every date fixed, unless is exempted by specific order of the Court.
- (iii) 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



police officer.

(iv) any infraction shall entail in withdrawal of the benefit granted by this court.

6. In the eventuality of breach of any of the aforementioned conditions, the respondent-State shall be at liberty to move an application seeking cancellation of the bail.

7. It is made clear that any observation made herein above is only for the purpose of deciding the present petition and the same shall have no bearing on the merits of the case.

22.05.2026
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(MANISHA BATRA)
JUDGE

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