



IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

221

CRM-M No.13644 of 2025 (O&M)
Date of Decision: 16.01.2026

Vikas @ Vicky

.....Petitioner

Versus

State of Haryana

..... Respondent

CORAM: HON'BLE MR.JUSTICE SURYA PARTAP SINGH

Present: Mr. Ashish Aggarwal, Advocate for the petitioner.

Ms. Deepali Verma, AAG, Haryana.

SURYA PARTAP SINGH, J. (Oral):

For the commission of offence punishable under Sections 302, 120-B of the Indian Penal Code, hereinafter being referred to as 'IPC', and Section 25 of Arms Act, the FIR No.562 dated 01.08.2018 has been lodged in Police Station Gurgaon Sadar, District Gurugram. The petitioner is in custody, and therefore, craving for bail. This is second petition for bail, filed by the petitioner under Section 483 of the Bharatiya Nagarik Suraksha Sanhita, 2023.

2. Briefly stating the facts emerging from record are that the abovementioned FIR came into being at the instance of 'Laxmi Devi', hereinafter being referred to as complainant. It was stated by the above named complainant that on that day at about 10 P.M. it was raining, and that she and her husband were going from their house to their plot. As per complainant, she was walking on foot being followed by her husband on scooty and that near their plot some unknown persons fired a gun-shot upon her husband due to



which her husband fell down on the road. According to petitioner, her husband was got admitted in the 'Medanta Hospital' but he passed away.

3. It was also stated by the complainant that a family dispute was going on between her husband and husband's elder brother 'Subhash'. According to complainant, although the matter was patched-up and the compromise had taken place, but 'Subhash', his wife 'Uma' and sons 'Nitin' and 'Vikas' were not satisfied and they continued to threat the family of complainant of dire consequence. The complainant had specifically alleged that under a common conspiracy they got her husband killed.

4. It is the case of the prosecution that on the basis of abovementioned complaint, formal FIR was lodged and the investigation taken up.

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

6. Heard.

7. It has been contended on behalf of petitioner that the petitioner is innocent having no nexus, whatsoever, with the commission of crime, and that in the present case three persons who were alleged to be involved in the incident of shooting and two persons, i.e. brother and father of petitioner, who were allegedly involved in the conspiracy for the commission of offence have already been convicted. According to learned counsel for the petitioner, by filing a supplementary challan one accused namely 'Udham' and the petitioner have been prosecuted and that the allegations against the petitioner are that he



had entered into conspiracy for the commission of crime.

8. The learned counsel for the petitioner has pointed out that one of the strange part to be taken into consideration is that the allegations against the petitioner are of hatching conspiracy with his brother and father namely 'Subhash', and that as per above mentioned conspiracy the petitioner had paid money to his co-accused 'Udham'. According to learned counsel for the petitioner irrespective of the fact that brother and father of accused namely 'Subhash' were arrested and interrogated at initial stage the petitioner was not implicated and he has been implicated by virtue of supplementary of challan only. As per learned counsel for the petitioner, the above mentioned conduct of the investigating agency shatters the very credibility of the story set up by the prosecution and makes it apparent that the petitioner has been falsely implicated in this case on the basis of procured statement.

9. It has also been contended by learned counsel for the petitioner that otherwise also there is no allegations against the petitioner that he was present on the spot at the time of occurrence nor there is any allegations that he was actually involved in the commission of crime. It has also been contended by learned counsel for the petitioner that the petitioner has already suffered prolonged incarceration for being in custody for a period of more than 2 years and that the trial is taking place at a very slow pace as out of 32 only 1 witness has been examined so far.

10. Per contra, the learned State Counsel has controverted the above mentioned arguments. It has been contended by the learned State counsel that



credibility of the prosecution case stands fortified from the fact that 5 persons have already been convicted in the present case. According to learned State counsel, there are very specific and categorical allegations against the petitioner that he had actively participated in the commission of crime, being part of the conspiracy, and thereafter, paying money to co-accused Udham. As per learned State Counsel, if released on bail the petitioner may misuse the concession of bail and that his antecedents are not clean, as he has been prosecuted in 2 other criminal cases also.

11. The record has been perused carefully.

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

- i) that the petitioner is already in custody for a period of more than 2 years;
- ii) that the manner in which the petitioner has been prosecuted is strange as at the first instance no charge sheet was filed against him despite the fact that father and brother of the petitioner were challaned by the police on the ground of being the conspirator but subsequently, on the basis of allegations which must have been within the knowledge of prosecuting agency at the time of filing of first set of challan itself, the petitioner has been prosecuted. There is no convincing allegations qua this point;



- iii) that nothing is left to be recovered from the possession of petitioner;
- iv) that the trial is not likely to be concluded in near future, as out of 32 witnesses only 1 witness has been examined so far;
- v) that detention of petitioner in judicial lockup 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.

13. 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”.

14. 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”.

15. 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”.

16. 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 an undertrial prisoner, as mandated by Hon’ble Apex court in ‘Balwinder Singh versus State of Punjab and another’ 2024 SCC Online SC 4354.

17. 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.

18. 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 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.

(SURYA PARTAP SINGH)
JUDGE

16.01.2026
Manoj Bhutani

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