

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

2026.PHHC:038808



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CRM-M-12271-2026

Date of decision: 12.03.2026

Date of uploading: 12.03.2026

Chotu @ Sahil

....Petitioner

V/s

State of Haryana

....Respondent

CORAM: HON'BLE MR. JUSTICE SUMEET GOEL

Present:- Mr. Rahul Deswal, Advocate for the petitioner(s).

Mr. Gurmeet Singh, AAG, Haryana.

SUMEET GOEL, J. (ORAL)

1. Present petition is the second attempt, which has been filed under Section 483 of BNSS 2023 for grant of regular bail to the petitioner in case bearing FIR No.335 dated 23.12.2023, registered for the offences punishable under Sections 302, 392 of IPC and Section 25(1-B)(a) of the Arms Act, at Police Station Manesar, District Gurugram.

2. The case set up in the FIR in question (as set out by the petitioner in the present petition) is as follows:-

“To, The Station Master Saheb, Manesar, District Gurugram, Sir, I request you that I am Virendra Kumar s/o Late Sukhvasi Lal resident of Village Jua, P.O. Jua, Police Station Phaphund, District Auraiya, Uttar Pradesh, at present address L-90A, Indraprastha Colony. Tila Sahawajpur, Loni, GDA Flat, Tehsil Loni, District Ghaziabad, Uttar Pradesh. I work in a Private Company. That, today I received information on phone that someone has shot dead my nephew Udaivir S/o Shripat Narayan, aged 32 years. That the murder has been committed on Jaipur Delhi Road on the highway near Aravali Dhaba, Manesar, Gurugram. On the basis of said information, I reached the spot in Gurugram with my relatives and found out and I have identified the dead body of my nephew after seeing it in the mortuary, Gurugram. This dead body is of Udaivir S/o Shripat Narayan. My nephew was driving his Taxi No. HR55AD4590 brand drives HYUNDAI XCENT. My nephew Udayveer had taken someone to Rewari side Haryana on 22/12/2023 in the car. After that while coming from Rewari, on the left side of the Aravali Dhaba, Highway Manesar Delhi Road Highway, an unknown person has shot my nephew in the head and killed him due to some enmity. My nephew Udayveer's wife Kirti of Kakardiya village, District Etawah, Uttar Pradesh has been living in her maternal home for about 4 years due to a domestic dispute. Due to which Udayveer is having a dispute with his in-laws. Therefore, I request you to find out whoever has shot and killed my nephew Udayveer due to some enmity and get the harshest punishment against them and give us justice. Sd./- Virender Kumar 23-12-2023, Name Virender Kumar, Father-Late Sukhvasi Lal Resident of Village Jua PO Jua Police Station Phaphund District Auraiya, UP Present Address L-90A, Indraprastha Colony, Tila Sahawajpur, Loni, GDA Flat. Tehsil Loni, District Ghaziabad, Uttar Pradesh mobile number 9711811329.”

3. Learned counsel appearing for the petitioner has argued that the petitioner is in custody since 24.12.2023. Learned counsel appearing for the petitioner has further argued that the petitioner has been falsely implicated into the FIR in question. Learned counsel appearing for the petitioner has further submitted that the prime prosecution witness namely PW-Vinod Kumar when examined on 11.02.2026 has turned hostile and, thus, the trial is not likely to culminate into conviction. Learned counsel appearing for the petitioner has further submitted that the petitioner has suffered incarceration for more than 1 year and 8 months. Thus, regular bail is prayed for.

4. Learned State counsel has opposed the present petition by arguing that the allegations raised against the petitioners are serious in nature and, thus, they do not deserve the concession of the regular bail. Learned State counsel has further submitted that a country made pistol which has been used in the offence in question alongwith live cartridges, was recovered from the petitioner. Learned State counsel has further submitted that the location of the mobile phone of the petitioner reflects that the petitioner was present in the vicinity of the spot where the offence was committed. Learned State counsel seeks to place on record custody certificate dated 11.03.2026, which is taken on record.

5. I have heard counsel for the rival parties and have gone through the available records of the case.

6. The petitioner was arrested on 24.12.2023 whereinafter investigation was carried out and challan was presented on 20.03.2024.

Total 32 prosecution witness have been cited, out of which 10 have been

examined till date. It is not disputed that prime prosecution witnesses namely PW-Vinod Kumar has turned hostile. It is not in dispute that the conclusion of trial will take long time. At this juncture, it would be apposite to refer herein to the *dicta* passed by the Hon'ble Supreme Court ***Javed Gulam Nabi Shaikh vs. State of Maharashtra and another, 2024(3) RCR (Criminal) 494***, relevant whereof reads thus:

“18. Criminals are not born out but made. The human potential in everyone is good and so, never write off any criminal as beyond redemption. This humanist fundamental is often missed when dealing with delinquents, juvenile and adult. Indeed, every saint has a past and every sinner a future. When a crime is committed, a variety of factors is responsible for making the offender commit the crime. Those factors may be social and economic, may be, the result of value erosion or parental neglect; may be, because of the stress of circumstances, or the manifestation of temptations in a milieu of affluence contrasted with indigence or other privations.

19. If the State or any prosecuting agency including the court concerned has no wherewithal to provide or protect the fundamental right of an accused to have a speedy trial as enshrined under [Article 21](#) of the Constitution then the State or any other prosecuting agency should not oppose the plea for bail on the ground that the crime committed is serious. [Article 21](#) of the Constitution applies irrespective of the nature of the crime.”

The rival contentions of the learned counsel for the parties including the factum of the weightage required to be attached to the testimony of the hostile witnesses shall be gone into during the course of the trial. Nothing tangible has been brought forward to indicate the likelihood of the petitioners absconding from the process of justice or interfering with the prosecution evidence.

6.1. Indubitably, the present petition is the second attempt on behalf of the petitioner for securing regular bail. The first one bearing no. **CRM-M-45576-2025** was dismissed as withdrawn on 16.01.2026 vide the following order:

“1. Present petition has been filed under Section 483 of the Bharatiya Nagarik Suraksha Sanhita, 2023 (for short ‘BNSS’) for grant of regular bail to the petitioner in case FIR No.335 dated 23.12.2023 under Sections 302, 392 of the IPC and Section 25(1-B)(a) of Arms Act, 1959, registered at Police Station Manesar, District Gurugram.

2. Faced with the situation that a prime private prosecution witness PW Vinod is yet to be examined as a witness, learned counsel for the petitioner seeks to withdraw the petition in hand at this stage.

3. Ordered accordingly.

4. Since the petitioner is in custody for a period of more than 2 years, it is deemed appropriate that the testimony of the said PW Vinod be recorded at the earliest by the trial Court.

5. Ordered accordingly.”

However, keeping in view the entirety of facts and circumstance of the case in hand especially keeping in view the extended custody, the prime prosecution witness namely PW-Vinod having been examined and pace of trial, this Court is inclined to favourably consider the instant plea for bail. A profitable reference, in this regard, can be made to a judgment of this Court passed in **CRA-S-2332-2023** titled as **Rafiq Khan versus State of Haryana and another**; relevant whereof reads as under:

“10. As an epilogue to the above discussion, the following principles emerge:

I Second/successive regular bail petition(s) filed is maintainable in law & hence such petition ought not to be rejected solely on the ground of maintainability thereof.

II. Such second/successive regular bail petition(s) is maintainable whether earlier petition was dismissed as

withdrawn/dismissed as not pressed/dismissed for non-prosecution or earlier petition was dismissed on merits.

III For the second/successive regular bail petition(s) to succeed, the petitioner/applicant shall be essentially/pertinently required to show substantial change in circumstances and showing of a mere superficial or ostensible change would not suffice. The metaphoric expression of seeking second/successive bail plea(s) ought not be abstracted into literal iterations of petition(s) without substantial, effective and consequential change in circumstances.

IV No exhaustive guidelines can possibly be laid down as to what would constitute substantial change in circumstances as every case has its own unique facts/circumstance. Making such an attempt is nothing but an utopian endeavour. Ergo, this issue is best left to the judicial wisdom and discretion of the Court dealing with such second/successive regular bail petition(s).

V In case a Court chooses to grant second/successive regular bail petition(s), cogent and lucid reasons are pertinently required to be recorded for granting such plea despite such a plea being second/successive petition(s). In other words, the cause for a Court having successfully countenanced/entertained such second/successive petition(s) ought to be readily and clearly decipherable from the said order passed.”

As per custody certificates filed today, the petitioner has undergone 1 year, 8 months and 18 days and is shown to be involved in multiple other cases/FIRs. However, this factum cannot be a ground sufficient by itself, to decline the concession of regular bail to the petitioner in the FIR in question when a case is made out for grant of regular bail *qua* the FIR in question by ratiocinating upon the facts/circumstances of the said FIR. Reliance in this regard can be placed upon the judgment of the Hon’ble Supreme Court in ***Maulana Mohd. Amir Rashadi v. State of U.P. and another, 2012 (1) RCR (Criminal) 586***; a Division Bench judgment of the Hon’ble Calcutta High Court in case of ***Sridhar Das v. State, 1998 (2) RCR (Criminal) 477*** & judgments of this Court in ***CRM-M No.38822-2022*** titled as ***Akhilesh Singh v. State of Haryana***, decided on 29.11.2021, and ***Balraj v. State of Haryana, 1998 (3) RCR (Criminal) 191***.

Suffice to say, the further detention of the petitioners in custody is not required in the facts and circumstances of the case.

7. In view of the above, the petition is allowed. Petitioner is ordered to be released on regular bail on his furnishing bail/surety bonds to the satisfaction of the learned concerned CJM/Duty Magistrate. However, in addition to conditions that may be imposed by the concerned CJM/Duty Magistrate, the petitioner shall remain bound by the following conditions:-

- (i) The petitioner shall not mis-use the liberty granted.
- (ii) The petitioner shall not tamper with any evidence, oral or documentary, during the trial.
- (iii) The petitioner shall not absent himself on any date before the trial.
- (iv) The petitioner shall not commit any offence while on bail.
- (v) The petitioner shall deposit his passport, if any, with the trial Court.
- (vi) The petitioner shall give his cell phone number to the Investigating Officer/SHO of concerned Police Station and shall not change his cell-phone number without prior permission of the trial Court/Illaq Magistrate.
- (vii) The petitioner shall not in any manner try to delay the trial.

8. In case of breach of any of the aforesaid conditions and those which may be imposed by concerned CJM/Duty Magistrate as directed hereinabove or upon showing any other sufficient cause, the State/complainant shall be at liberty to move cancellation of bail of the petitioners.

9. Ordered accordingly.

10. Nothing said hereinabove shall be construed as an expression of opinion on the merits of the case.
11. Since the main case has been decided, pending miscellaneous application, if any, shall also stands disposed off.

March 12, 2026
Naveen

(SUMEET GOEL)
JUDGE

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