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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

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CRM-M-13890 of 2026
Date of Decision: 16.04.2026

Smallwell @ Smalvel @ Sheam

...Petitioner

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MS. JUSTICE RUPINDERJIT CHAHAL

Present: Mr. H.S. Grewal, Advocate
for the petitioner.

Mr. Rahul Jindal, AAG, Punjab.

RUPINDERJIT CHAHAL, J (ORAL)

1. Prayer in the instant petition filed under Section 483 of the Bharatiya Nagarik Suraksha Sanhita, 2023 is for grant of regular bail to the petitioner in case FIR No.220 dated 19.08.2023 registered under Section 302 and 34 of the IPC and Sections 25, 27 and 29 of the Arms Act (Section 120-B of IPC added later on), at Police Station Jandiala, District Amritsar Rural.
2. Brief facts of the present case are that the petitioner in connivance with other co-accused has committed the murder of the husband of the complainant. Hence, the present FIR.
3. Learned counsel for the petitioner has submitted that the petitioner has been falsely implicated in the present case and initially, FIR was registered against unknown persons. He further submitted that the petitioner was neither named in the FIR, nor has any concern with the death



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of the deceased. It has also been contended that the petitioner has been nominated as an accused only on the basis of the disclosure statement made by co-accused. Apart from the disclosure statement, there is no other evidence to connect the petitioner with the offence in question and it is a trite law that disclosure statement of the co-accused during his custodial interrogation is not admissible. He further argued that the petitioner was roped in the FIR only on the basis of suspicion without any concrete evidence. He argued that even if the contents of the FIR are taken to be true, even then no specific role/injury has been attributed to the present petitioner. Further, co-accused Hira Singh @ Diamond has already been granted the concession of regular bail by a Co-ordinate Bench of this Court, vide order dated 02.07.2025. He submitted that the complainant has not supported the case of the prosecution and has been declared hostile. To lend force to his contention, he has drawn the attention of this Court to the statement of complainant/Mahni (wife of the deceased) (Annexure P-3) made before the trial Court wherein she had not supported the case of the prosecution and has turned hostile. No recovery is to be recovered from him. The petitioner is in custody since 07.11.2023. The investigation in the case is complete, challan stands presented and charges have also been framed. He further submitted that there are total 33 prosecution witnesses and out of them, only 03 have been examined till date and as such, the trial will take a long time to conclude and no useful purpose would be served by keeping him behind bars. Therefore, it is urged that the petition deserves to be allowed.

4. On the other hand, learned State counsel has filed the status report in the matter, which is taken on record and while referring to the



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same, he has vehemently opposed the prayer for grant of bail by submitting that the offence committed by the petitioner is serious in nature and he is involved in the heinous crime of murder of the deceased. However, he could not controvert the fact that the complainant has resiled from her statement and turned hostile.

5. Having heard learned counsel for the parties at length and after perusing the record of the case, it is evident that the petitioner is in custody for the last more than 02 years and 06 months; the complainant has not supported the case of the prosecution and has turned hostile before the trial Court; investigation is complete; challan stands presented; charges framed; out of 33 witnesses, only 03 have been examined till date; the complicity of the petitioner is a matter of trial; which is proceeding at snail's pace, and will take a long time to conclude. Thus, no useful purpose would be served by detaining him in further custody. His continued detention without the prospect of trial being concluded in the near future would be violative of his rights under Article 21 of the Constitution of India.

6. Reliance is placed upon a judgment in the case of ***Dataram Singh vs. State of Uttar Pradesh & Anr. 2018(2) R.C.R. (Criminal) 131***, wherein the Hon'ble Apex Court has held that keeping somebody behind the bars, till his guilt is proved, for an indefinite period amounts to infringement of his right to life and liberty, as enshrined under Article 21 of Constitution of India and is against the principle "*bail is a rule*" and "*jail is an exception*".

7. The foundational concept of the criminal jurisprudence is to ensure speedy trial. The Hon'ble Supreme Court has repeatedly reiterated



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that right to speedy trial is enshrined in Article 21 of the Constitution of India. Speedy trial would cover investigation, enquiry, trial, appeal, revision and retrial etc. i.e. everything starting with the accusation against the accused and expiring with the final verdict of the last Court.

8. In this regard, reference is being made to the law laid down by the Hon'ble Supreme Court in the context of right to speedy trial under Article 21 of the Constitution of India on the following decision:- *Akhtari Bi Vs. State of M.P., (2001) 4 SCC 355, Surinder Singh Alias Shingara Singh Vs. State of Punjab, (2005) SCC (CrI) 1674, P. Ramachandra Rao Vs. State of Karnataka, (2002) 4 SCC 578, Babu Singh and others Vs. State of U.P., (1978) 1 SCC 579, Takht Singh and others Vs. State of M.P., (2001) 10 SCC 463; Special Leave to Appeal (CrI) No.2356 of 2010, Kushal Singh Vs. State of U.P. (2JJ.) and Fazal Vs. State of Uttar Pradesh, (2012) 5 SCC 752.*

9. In view of the above, the present petition is allowed and the petitioner is ordered to be released on bail on his furnishing bail bonds/surety bonds to the satisfaction of the learned trial Court/Duty Magistrate/CJM concerned. It is clarified that nothing stated herein shall be construed as an expression of opinion on the merits of the case.

(RUPINDERJIT CHAHAL)
JUDGE

16.04.2026
D.Bansal

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