



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

229

CRM-M-15605-2026
Decided on : 17.04.2026

Kusum @Kushum

..... Petitioner

VERSUS

State of Haryana

..... Respondent

CORAM: HON'BLE MR. JUSTICE SURYA PARTAP SINGH

Present: Mr. Sanchit Choudhary, Advocate for the petitioner.

Ms. Deepali Verma, AAG Haryana.

SURYA PARTAP SINGH, J.

This petition is the first petition for bail, filed by the petitioner under Section 483 of 'the Bharatiya Nagrik Suraksha Sanhita', 2023. It has been filed with regard to a case arising out of FIR No.454 dated 23.09.2024, for the commission of offence punishable under Sections 103(1), 3(5), 61(2) of Bharatiya Nyaya Sanhita, 2023, Police Station City Hisar, District Hisar.

2. The abovementioned FIR has been lodged in Police Station City Hisar. Succinctly the allegations contained in the FIR are that the petitioner was member of a group, and hatched a conspiracy to kill Vijay Ahuja and executed the abovementioned plan.



3. Briefly stating the facts emerging from the record are that FIR of this case came into being at the instance of 'Perna', hereinafter being referred to as 'complainant' only. It was stated by the abovenamed complainant that the marriage of her brother, namely 'Amardeep' was solemnized with 'Karishma', and that after marriage, 'Kusum @Kushum' (the petitioner herein) and the step-father of 'Karishma' used to harass the complainant's father, namely 'Vijay Ahuja' and that 'Krishma' had sold the gold jewellery gifted to her by her father-in-law 'Vijay Ahuja'. According to complainant on 23.09.2024, her father had gone on a two-wheeler to pay obeisance in a temple and later on, she came to know that he had been attacked by some unknown persons and was admitted in hospital. While raising a finger of accusation towards 'Karishma' and her parents, the complainant requested for action against them.

4. The learned State Counsel has filed custody certificate as well as status report. The same be taken on record.

5. Heard.

6. It has been argued by learned counsel for the petitioner that present case is a blind murder case, wherein there is no direct evidence to establish link between the commission of offence and the petitioner. As per learned counsel for the petitioner, in the instant case, except the disclosure statement of co-accused, there is no other evidence to prove that the petitioner had got any kind of nexus, whatsoever, with the abovementioned crime.



7. In addition to above, it has also been argued by learned counsel for the petitioner that petitioner is a female having responsibility of about four years old child and that she has already suffered incarceration for a period of one year six months and eighteen days. According to learned counsel for the petitioner, nothing has been left to be recovered from the possession of petitioner and that the trial is not likely to be concluded in near future and therefore, the petitioner is entitled for the benefit of bail.

8. *Per contra*, the learned State Counsel has argued that there is direct link between the commission of offence and the petitioner, as the petitioner was in touch of the assailants at the time of incident. It has also been argued by learned State Counsel that in addition to disclosure statement suffered by the co-accused, there are other supporting circumstances, i.e. plot to kill the victim, and takeover his property. As per learned State Counsel the above facts prove the involvement of the petitioner in the commission of offence.

9. The learned State Counsel being assisted by learned counsel for the complainant has also argued that the sole motive behind the commission of crime was to grab the property of deceased, as the deceased is survived by a divorcee daughter, who is suffering from depression, and a son having very low IQ. As per learned State Counsel if the benefit of bail is afforded to the petitioner, she will put illegal pressure upon the son and daughter of the deceased, and therefore, the petitioner is not entitled for the benefit of bail.

10. The record has been perused carefully.



11. A perusal of record shows that in the present case, following are the relevant factors which are required to be taken into consideration for a decision: -

- a. that the petitioner is a female having responsibility of a young child;
- b. that she is already in custody for a period of one year six months and eighteen days;
- c. that the investigation in this case is already complete and therefore, nothing has been left to be recovered from the possession of the petitioner;
- d. that the trial is not likely to be concluded in near future;
- e. that there is no eye-witness account to support the prosecution case, with regard to involvement of petitioner in the commission of crime;
- f. that the case is based upon circumstantial evidence, wherein allegations against the petitioner are of participation in criminal conspiracy. However, except the disclosure statement of co-accused, there is no other evidence against her;
- g. that the evidence being relied upon by the prosecution, raising the finger of accusation, towards the petitioner, i.e. disclosure statement of co-accused, is inadmissible evidence;
- h. that the petitioner has no criminal antecedents; and
- i. that detention of the petitioner behind the bar is not likely to serve any purpose;

12. In the present case, the principles of law laid down by the Hon'ble Supreme Court of India in the case of "Dataram versus State of Uttar Pradesh and another", 2018(2) R.C.R. (Criminal) 131, 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”.

13. The principles laid down by the Hon’ble the Supreme Court of India in the case of ‘Satender Kumar Antil Vs. Central Bureau of Investigation and Another’, (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”.

14. 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”.

15. 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 the accused as mandated by Hon’ble Apex court in “Balwinder Singh versus State of Punjab and Another”, 2024 SCC Online SC 4354.

16. If the cumulative effect of all the abovementioned factors, involved in the instant case, is taken into consideration, it leads to a



conclusion that the petitioner is entitled for the benefit of bail, and that the present petition deserves to be allowed.

17. 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 furnishing personal bond and surety bond(s) to the satisfaction of learned trial Court. However the abovementioned concession shall be subject to 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 to disclose 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 the trial Court.

(SURYA PARTAP SINGH)
JUDGE

April 17, 2026

Vinod

Whether speaking / reasoned
Whether Reportable

Yes/No
Yes/No