



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

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**CRM-M No.18058 of 2026
Date of decision : 9.4.2026
Date of uploading : 9.4.2026**

Ashutosh Pandey**Petitioner**
Versus
State of Haryana**Respondent**

CORAM: HON'BLE MR. JUSTICE SUMEET GOEL

Present: Mr. Soeb Khan, Advocate, for the petitioner
Mr. Gurmeet Singh, AAG, Haryana

SUMEET GOEL, J. (ORAL)

1. Present 2nd 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 bearing FIR No.93 dated 2.4.2025, registered for the offences punishable under Sections 311, 309(4), 3(5) of Bharatiya Nyaya Sanhita, 2023 and Section 29 of Arms Act, 1959 at Police Station Sector-5, District Gurugram.
2. The case set up in the FIR in question (as set out in the present petition by the petitioner) is as follows:-

'To SHO Sir, Police Station Sector 05 Gurugram Sir, I request that I Devnandan Kumar s/o Ramchandra Prasad Tati resident of Mohalla Takiya village Rajauli Police Station Rajauli District Nawada Bihar currently live on rent in house no. 54 street no. 3 Ashok Vihar Phase 3 Gurugram and I have opened a shop on rent near Hyundai Service Centre near Ganda Nala Ashok Vihar Phase 2 for money transfer in mobile



phones, today on 02.04.2025 at around 8:30 pm I was sitting inside my shop, meanwhile three boys came into the shop and talked about taking Bluetooth and switched off the lights of the shop and after putting on the gun they ran away with about 55000 rupees from the cash box of my shop, please take legal action against the three unknown robbers. SD-Devnandan Kumar 8409001639.'

3. Learned counsel for the petitioner has submitted that the petitioner is in custody since 25.4.2025. Learned counsel has further argued that the petitioner has been falsely implicated into the FIR in question. Learned counsel has further submitted that nothing has been recovered from the petitioner. Learned counsel has further submitted that the petitioner was not named in the FIR. Learned counsel has further submitted that the petitioner has been involved in the crime only on the basis of his own disclosure statement, which is not tenable in law. Learned counsel has further argued there is no other incriminating material to connect the petitioner with the commission of alleged crime. Learned counsel has further submitted that co-accused Krishan and Ajay, Ashish Baghel and Manish have already been granted the concession of regular bail by Coordinate Bench of this Court vide order dated 2.9.2025 passed in CRM-M No.47471 of 2025 and CRM-M No.66454 of 2025 (Bunch of 3 petitions). Learned counsel has further submitted that the petitioner has suffered incarceration for about 01 year. Thus, regular bail is prayed for.

4. Learned State counsel has has opposed the present petition by arguing that the allegations raised are serious in nature and thus the petitioner does not deserve the concession of the regular bail. Learned



State counsel seeks to place on record custody certificate dated 8.4.2026 in Court, which is taken on record.

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

6. The petitioner was arrested on 25.4.2025, whereinafter, the investigation was carried out and the challan qua the petitioner was presented on 12.6.2025. Total 16 prosecution witnesses have been cited but only 01 has been examined till date. It is not in dispute that the petitioner was not named in the FIR and nothing was recovered from him. It is also not disputed that co-accused Krishna, Ajay, Ashish Baghel and Manish have already been granted the concession of regular bail by Coordinate Bench of this Court. The involvement of the petitioner in the offence in question is his own disclosure statement, which is not tenable in law. There is no other incriminating material to connect the petitioner with the offence in question. The rival contention raised at Bar give rise to debatable issues which shall essentially be ratiocinated upon during the course of trial. This Court does not deem it appropriate to delve deep into these rival contentions, at this stage, *lest* it may prejudice the trial. Nothing tangible has been brought forward to indicate the likelihood of the petitioner absconding from the process of justice or interfering with the prosecution evidence.

6.1 As per custody certificate dated 8.4.2026 filed by learned State counsel, the petitioner has already suffered incarceration for a period of 11 months and 14 days. As per the said custody certificate, the petitioner



is stated to be involved in one more FIR. Indubitably, the antecedents of a person are required to be accounted for while considering a regular bail petition preferred by him. 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***.

6.2 Indubitably, the present petition is the 2nd attempt by the petitioner to secure regular bail. The last bail plea preferred by the petitioner was dismissed as withdrawn on 21.1.2026. However, keeping in view the extended incarceration of the petitioner and no substantial progress in 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.”

Suffice to say, further detention of the petitioner as an undertrial is not warranted in the facts and circumstances of the case.

7. In view of above, the present petition is allowed. Petitioner is ordered to be released on regular bail on his furnishing bail/surety bonds to the satisfaction of the Ld. 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/Illaqa 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 petitioner.

9. Ordered accordingly.

10. Nothing said hereinabove shall be construed as an expression of opinion on the merits of the case.

(SUMEET GOEL)
JUDGE

9.4.2026
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Whether speaking/reasoned:	Yes/No
Whether reportable:	Yes/No