



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

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**CRM-M No.17530 of 2026
Date of decision : 19.5.2026
Date of uploading : 19.5.2026**

Sharwan Kumar**Petitioner**

Versus

State of Haryana**Respondent**

CORAM: HON'BLE MR. JUSTICE SUMEET GOEL

Present: Mr. S.S. Nain, Advocate, for the petitioner

Mr. Gurmeet Singh, AAG, Haryana

SUMEET GOEL, J. (ORAL)

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.289 dated 10.12.2024 under Section 109 of Bharatiya Nyaya Sanhita, 2023, registered at Police Station Udyog Vihar, 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 Police Station Udyog vihar Gurugram Sir, I am Devender son of Deshraj, village Kajitola, Police Station Kotwali Kannauj, UP at present address PLOT NO.414 Udyog Vihar Phase 3 Gurugram and there is RICHLOOK company in the above said plot in which, I do tailoring wori and my brother Premkant 50 Ramkhilawan also works with me and many employees work in the company. I was in the company on 9/12/2024. The company has given us ample space to live where we also cook our food.



About two years ago I had a fight with Shrawan regarding tailoring work. Out of fear I left the company and went to my village but it was not possible to survive in the village and I came back to the company and started working and my tailoring work was good due to which Shrawan started having a grudge against me and said to leave the job and go to the village then I said that I will do the same work. Yesterday at around 8 pm, Shrawan told me to go to the company park, when I refused, he started fighting with me and said that he would kill me today. Then Shrawan stabbed me twice in my stomach with his knife, the knife entered my stomach cutting my sweatshirt, due to which my stomach was cut badly. Shrawan had stabbed me in the stomach with the intention of killing me, but during that time my brother saved me from Shrawan and I was admitted to Samarth Hospital Sector 5 Gurugram for treatment. If my brother Prem Kant was not there, Shrawan would have killed me. Take legal action against Shrawan, thank you Devender.'

3. Learned counsel for the petitioner has argued that the petitioner is in custody since 10.12.2024. Learned counsel has further urged that the petitioner has been falsely implicated into the FIR in question on account of previous enmity with the complainant/injured. Learned counsel has further urged that the petitioner is in custody for the last more than 01 year and 5 months. Learned counsel has further iterated that the petitioner is a man with clean antecedents. Learned counsel has further argued that the petitioner is sole bread earner of his family and his continuous incarceration has ill effects on his family. Learned counsel has further urged that all prosecution witnesses stand examined and thus, the petitioner is not in a position to influence the prosecution witnesses/trial. Thus, regular bail is prayed for.

4. Learned State counsel 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 18.5.2026 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 10.12.2024 wherein after investigation was carried out; challan was prepared on 4.2.2025 and subsequently filed. It is not in dispute before this Court that all prosecution witnesses stand examined. The very premise for the continued incarceration of the petitioner is significantly attenuated. The apprehension of the petitioner influencing or tampering with the prosecution witnesses, a common ground for denial of bail, is rendered largely moot in such circumstances. As the venerable legal maxim goes '*Cessante ratione legis, cessat ipsa lex*'- when the reason for the law ceases, the law itself ceases-duly encapsulates within its ambit, the factual milieu of the instant case. The primary rationale for pre-trial detention, securing the integrity of the prosecution's case and ensuring the accused's presence at trial, is substantially diminished when the evidentiary phase of the prosecution is virtually complete. Furthermore, it is a cardinal principle of criminal jurisprudence that the right to a fair trial is paramount, an indispensable facet of which is the accused's opportunity to present a robust defense. Although the right to lead defence by an accused is regulated by Section 233 of Cr.P.C, *nonetheless*, it is one of the most valuable rights. A criminal trial is not a one-sided affair, it embodies the



adversarial system where both the prosecution and the defense must be afforded an equal, if not greater, opportunity to substantiate their respective cases. To effectively exercise this inalienable right to lead defense evidence, the physical liberty of the accused is often an essential factor. A person confined to custody faces considerable impediments in consulting with legal counsel, gathering defense witnesses, and preparing their strategy. Denial of liberty at this advanced stage, when the prosecution's evidentiary edifice is almost complete, can severely cripple the defense, thereby striking at the very root of a fair trial. *Audi alteram partem* -hear the other side- is a fundamental dictate of natural justice, and denying bail when there's no palpable risk of witness tampering would be to render this maxim nugatory. At this juncture, it would be apposite to refer herein to a judgment passed by the Hon'ble Supreme Court in '*Gudikanti Narasimhulu and others versus Public Prosecutor, High Court of Andhra Pradesh*', 1978 AIR (SC) 429, relevant part thereof reads as under:

"11. We must weight the contrary factors to answer the test the reasonableness, subject to the need for securing the presence of the bail applicant. It makes sense to assume that a man on bail has a better chance to prepare of present his case than one remanded in custody. And if public justice is to be promoted, mechanical detention should be demoted."

The rival contentions raised at Bar give rise to debatable issues which shall 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



process of justice or interfering with the prosecution evidence.

6.1 It would be apposite to refer herein to a judgment passed by the Hon'ble Supreme Court in ***Criminal Appeal No.2787 of 2024*** titled as ***Javed Gulam Nabi Shaikh vs. State of Maharashtra and another***, decided on 03.07.2024; relevant whereof reads as under:-

“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.

20. We may hasten to add that the petitioner is still an accused; not a convict. The over-arching postulate of criminal jurisprudence that an accused is presumed to be innocent until proven guilty cannot be brushed aside lightly. howsoever stringent the penal law may be.

21. We are convinced that the manner in which the prosecuting agency as well as the Court have proceeded, the right of the accused to have a speedy trial could be said to have been infringed thereby violating Article 21 of the Constitution.”

6.2 As per custody certificate dated 18.5.2026 filed by learned State counsel, the petitioner has already suffered incarceration for a period of 01 year, 5 months and 9 days & is not shown to be involved in any other case.

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

19.5.2026
Ashwani

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