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IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

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CRM-M-19068-2026

Date of decision: 17th April, 2026

Gurpreet Singh @ Mithu

...Petitioner

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MRS. JUSTICE MANISHA BATRA

Present: Mr. Rajiv Kumar Saini, Advocate for the petitioner.
Mr. Roshandeep Singh, Assistant Advocate General, Punjab.

MANISHA BATRA, J (ORAL):-

The instant one is the third petition filed under Section 483 of the Bharatiya Nagarik Suraksha Sanhita, 2023 (for short 'BNSS') by the petitioner seeking grant of regular bail in case bearing FIR No. 63 dated 28.09.2023 registered under Sections 302, 460 and 380 of IPC (Sections 120-B and 34 of IPC added later on) at Police Station Jhander, District Amritsar. The previous petition had been dismissed by this Court by making the following observations:-

“The petitioner is alleged to have hatched a conspiracy with the co-accused and in pursuance thereof, the co-accused Jugraj Singh and Jagpreet Singh are alleged to have entered into the house of the victim on the fateful night, committed theft of property and caused her homicidal death. The case is based on circumstantial evidence. The material witnesses are yet to be examined. The previous petition of the petitioner was dismissed by passing a detailed order. There does not appear to be any substantive change in the circumstances. It is well settled proposition of law the prolonged period of incarceration cannot

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be considered to be a solitary ground for grant of bail to an accused of a heinous crime like the present one. The trial may be expedited further. The petitioner might not have played any specific overt act in killing the victim but the allegations prima facie show his active participation in hatching conspiracy alongwith the co-accused for committing murder of the victim. Keeping in view the above discussed facts, the nature of the allegations as levelled against him, the quantum of sentence which the conviction may entail and the attendant facts and circumstances but without meaning to make any comment on the merits of the case, this Court is of the considered opinion that the petition does not deserve to be allowed. Accordingly, the same is dismissed.”

2. It is argued by learned counsel for the petitioner that after dismissal of his last petition a period of about 11 months has expired, however, there has been no progress in the trial as only 03 out of 31 prosecution witnesses have been examined so far. He has been in custody for a period of about 02 years and 06 months. He was not named in the FIR. There is no evidence to connect him with the subject offences. The trial will take considerable time to conclude. No useful purpose would be served by detaining him in custody anymore. Each day spent by him in custody has given rise to a fresh cause of action for seeking bail. Co-accused Jugraj Singh @ Kaka against whom were graver allegations and on whose disclosure, he was nominated as accused has since been extended benefit of bail in vide order dated 30.03.2025 in CRM-M-68365-2025 decided on 30.03.2026. On parity, he too deserves to be extended benefit of bail. It is, therefore, argued that the petition deserves to be allowed.

3. Notice of motion.

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4. Learned State counsel who has advance notice of the petition and is ready to argue the matter, has submitted that the instant petition, being a successive petition, is not maintainable. It is further argued that the allegations against him are grave in nature. There has not been any substantive change in the circumstances. Therefore, it is stressed that the petition does not deserve to be allowed.

5. This Court has heard the rival submissions made by learned counsel for the parties at considerable length.

6. The petitioner is in custody for a period of about 02 years and 06 months. Similarly situated co-accused has been extended benefit of bail. Only 03 out of 31 prosecution witnesses have been examined so far. There is no possibility of conclusion of trial in near future as a substantial number of witnesses are yet to be examined. This factor, in the opinion of this Court, is a ground to move for bail afresh. The Hon'ble Apex Court has observed in a catena of cases that an accused cannot be kept in custody for an indefinite period of time, and the bail application can be considered on its own merits even if it is filed repeatedly. It has also been held that every day spent in custody can provide a new cause of action for filing a bail application under certain circumstances. This principle is a part of the broader approach emphasizing that law prefers bail over jail, aiming to balance the right of the accused with the requirements of the criminal justice system. Prolonged detention itself is a ground for reconsideration of bail since settled proposition of law is that detention prior to trial should not become punitive. It is also well settled proposition of law that prolonged incarceration generally militates

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against the most precious fundamental right guaranteed under Article 21 of the Constitution and in such cases, when there is delay in conclusion of trial without there being any fault on the part of the accused, he becomes entitled to be released on bail. Since the trial of this case, apparently and evidently is shown to have been delayed, as such, this Court is of the considered opinion that no fruitful purpose would be served by detaining the petitioner in custody. It is also well settled preposition of law that the bail is the rule and jail is an exception and that pre-trial incarceration should not be a replica of post-conviction sentence. Keeping in view the above facts and circumstances, this Court is of the considered opinion that the petition deserves to be allowed. Accordingly, the petition is allowed, and the petitioner is ordered to be released on bail subject to his furnishing personal as well as surety bonds to the satisfaction of the learned Chief Judicial Magistrate/trial Court/Duty Magistrate concerned.

7. It is clarified that observations made hereinabove shall not be construed as an expression of opinion on the merits of the case.

8. Since the main petition has already been disposed of, pending application, if any, is rendered infructuous.

[MANISHA BATRA]
JUDGE

17th April, 2026

Parveen Sharma

1. Whether speaking/ reasoned	:	Yes / No
2. Whether reportable	:	Yes / No