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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M No.19268 of 2026

Shamsher Singh ... Petitioner

Versus

State of Punjab ... Respondent

1.	The date when the judgment is reserved	28.04.2026
2.	The date when the judgment is pronounced	30.04.2026
3.	The date when the judgment is uploaded on the website	30.04.2026
4.	Whether only operative part of the judgment is pronounced or whether the full judgment is pronounced	Full
5.	The delay, if any, of the pronouncement of full judgment, and reasons thereof	Not applicable

CORAM: HON'BLE MRS. JUSTICE MANISHA BATRA

Present: Mr. G.S. Ghuman, Advocate and
Mr. P.S. Maan, Advocate,
for the petitioner.

Ms. Sakshi Bakshi, AAG, Punjab,
for the respondent-State.

Mr. Shailender Singh Momi, Advocate,
for the complainant.

MANISHA BATRA, J.

1. The instant one is the second petition as filed by the

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petitioner under Section 483 of the Bharatiya Nagarik Suraksha Sanhita, 2023 (For short “BNSS”) seeking regular bail in case arising out of FIR No.17 dated 05.02.2024 registered under Sections 302, 307, 427, 148 and 149 of IPC and Sections 25 and 27 of Arms Act, 1959 at Police Station Division B, District Police Commissionerate Amritsar. The previous petition bearing CRM-M-21339-2025 had been dismissed by this Court vide order dated 12.11.2025 by making the following observations:-

“8. The petitioner is alleged to be a member of an unlawful assembly formed with the co-accused two of whom are his sons and in prosecution of common object of that unlawful assembly to eliminate the victim Harmanjeet Singh, firearm injuries were caused to him which proved fatal and resulted in his instantaneous death. The allegations prima facie reveal the presence of the petitioner at the spot and his participation in the incident. He has been linked to the acts attributed with the aid of Section 149 of IPC which has following three ingredients:-

1. There must be an unlawful assembly;
2. Commission of an offence may be by any member of the unlawful assembly; and
3. Such offence must have been committed in prosecution of the common object of the assembly, or must be such as the members of the assembly knew to be likely to be committed.

9. From a perusal of the above ingredients, it is apparent that even mere presence in the unlawful assembly but with an active mind to achieve the common object, makes a person vicariously liable for the acts of the unlawful assembly. Under Section 149 of IPC, the liability of the other members,

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for the offence committed during the continuance of the occurrence rests upon the fact whether the other members knew beforehand that the offence actually committed was likely to be committed in prosecution of the common object. Such knowledge may reasonably be collected from the nature of the assembly, arms, or behaviour at or before the scene of action.

10. In the instant case, the petitioner along with the co-accused had encircled/intercepted the victim Harmanjeet Singh when he along with his friend Robin was on the way to his house. A shot with a firearm was fired at the victim which resulted in his death. The allegations prima facie show the common object of members of the assembly including the petitioner and his complicity in the crime. The petitioner stands accused of a heinous crime punishable with capital punishment or life imprisonment. He is prima facie liable under the principle of vicarious liability. While length of incarceration is a factor that weighs with the Court in considering bail, it cannot overshadow the seriousness of the accusation of murder under Section 302 IPC. It is well-settled proposition of law that grant of bail is a discretionary relief to be granted or denied based on specific facts and circumstance of each case and there cannot be any exhaustive parameters set out for considering the application for grant of bail. The factors such as nature of accusations, severity of punishment if the accusations entail a conviction and nature of evidence in support of accusations are to be seen. That apart, reasonable apprehension of tampering with evidence or threatening the complainant is also to be weighed. Frivolity of prosecution should always be considered, and it is only the element of genuineness that has to be considered in the matter of grant of bail. In light of the foregoing legal principles, and having regard to the applicant's

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role in the incident, the recovery of the weapon of offence at his instance, his involvement in another case, and the reasonable apprehension of his absconding or tampering with evidence, this Court finds no compelling ground to grant bail to the petitioner. Accordingly, the petition is dismissed.

2. It is argued by learned counsel for the petitioner that after dismissal of his previous petition, there has been no progress in the trial as none out of 43 prosecution witnesses has been examined so far. Each day spent by him in custody has furnished a ground afresh to him to seek concession of bail. No specific overt act or injury had been attributed to him. He is an old aged person. No useful purpose would be served by detaining him in custody any more. It is, thus, argued that the petition deserves to be allowed.

3. Status report and custody certificate have been filed. Learned Assistant Advocate General, Punjab assisted by learned counsel for the complainant has vehemently argued that the petition is not maintainable since the same is successive petition filed shortly after dismissal of previous petition. There is no substantial or drastic change in the circumstances. The petitioner by virtue of vicarious liability is equally liable for act and conduct of each member of the unlawful assembly and is accused of committing a heinous crime. His prolonged incarceration is no reason for extending benefit of bail. It is, therefore, stressed that the petition does not deserve to be allowed.

4. This Court has heard learned counsel for the parties at

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considerable length.

5. So far as the question of maintainability of this petition being successive petition is concerned, the well settled proposition of law is that a successive petition is maintainable. However, for such petition to be allowed, the petitioner must show some substantial change in circumstances and showing of a mere superficial or ostensible change would not suffice. Reference in this regard can be had to the observations made by this Court in ***Rafiq Khan Versus State of Haryana and another, 2024:PHHC:054064***. In the instant case, however, there does not appear to be any substantial or drastic change in the circumstances. The previous petition as filed by the petitioner had been dismissed by passing a detailed order as observed above, on 12.11.2025. This petition had been filed within a span of 05 months. While length of incarceration is a factor that weighs with the Court in considering bail, it cannot overshadow the seriousness of the accusation of murder under Section 302 of IPC. There exists a genuine apprehension that his release may imperil the course of trial and undermine the integrity of the trial and could pose a risk by influencing unexamined witnesses or tampering with evidence. It is well-settled proposition of law that grant of bail is a discretionary relief to be granted or denied based on specific facts and circumstance of each case and there cannot be any exhaustive parameters set out for considering the application for grant of bail. The factors such as nature of accusations, severity of punishment if the accusations entail a conviction and nature of evidence in support of



accusations are to be seen. That apart, reasonable apprehension of tampering with evidence or threatening the complainant is also to be weighed. Frivolity of prosecution should always be considered, and it is only the element of genuineness that has to be considered in the matter of grant of bail. It is also well settled proposition of law that mere prolonged period of custody is not sufficient ground for enlarging an accused on bail, when the offence alleged is serious. Reference in this context can be had to the observations made in *Parmod Kumar Saxena Vs. UOI, 2008(63) ACC (SC), Chenna Boyanna Krishna Yadav Vs. State of Maharashtra, (2007) 1 SCC, 242* and *State through CBI Vs. Amaramani Tripathi, 2005(4) RCR (Criminal) 280(SC)*. In light of the foregoing legal principles, this Court finds no compelling ground to grant bail to the petitioner. Accordingly, the petition is dismissed.

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

30.04.2026
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(MANISHA BATRA)
JUDGE

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