



IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

228

CRM-M-19385-2026

Date of decision: 17th April, 2026

Amit

...Petitioner

Versus

State of Haryana

...Respondent

CORAM: HON'BLE MRS. JUSTICE MANISHA BATRA

Present: Mr. Pankaj Bali, Advocate for the petitioner.

Mr. Neeraj Poswal, Assistant Advocate General, Haryana.

MANISHA BATRA, J (ORAL):-

The instant one is the forth 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. 768 dated 04.11.2021 registered under Sections 302, 201, 404, 34 of IPC at Police Station Assandh, District Karnal. One of the previous petitions had been dismissed as withdrawn.

2. The aforementioned FIR was registered on the basis of statement recorded by the complainant Gurnam Singh alleging that on the night of 03.11.2021, while going home, he had seen his brother Sanjeev Kumar @ Sandeep to be present along with the present petitioner, co-accused Mohan, Deepak and Vinod while consuming liquor by sitting near a wine shop. He had asked his brother to come home, but his companions had told that he would come back after some time. The dead body of his brother was found

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lying in their fields in the next morning. By alleging that the petitioner and the co-accused had hand in the murder of his brother, he prayed for taking action.

3. After registration of FIR, investigation proceedings were initiated. The petitioner and co-accused were arrested on 05.11.2021. They suffered disclosure statements admitting their involvement in the crime. Investigation now stands concluded.

4. It is argued by learned counsel for the petitioner that the last previous petition as filed by him has been dismissed on 20.05.2025. A period of about 11 months has lapsed thereafter. However, the trial has not progressed any further. Only 07 out of 22 prosecution witnesses have been examined so far. He is in custody for a period of about 04 years, 05 months and 12 days. The trial will take considerable time to conclude. Each day spent by him in custody has given rise to a fresh cause of action for seeking bail. No useful purpose would be served by detaining him in custody anymore. The continued detention of the petitioner will not serve any useful purpose. His prolonged incarceration is militating against the provisions of Article 21 of the Constitution of India. Similarly situated co-accused Deepak has been extended benefit of bail. It is, thus, argued that the petition deserves to be allowed.

5. *Per contra*, learned State counsel has argued that the instant petition being a successive petition is not maintainable. There is no substantive or drastic change in the circumstances. The material witnesses have been examined and have supported the prosecution version. The trial

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may be expedited further. Prolonged incarceration in such like cases cannot be considered to be a reason for extending benefit of bail to him. There are chances of his absconding or committing similar offences, if extended benefit of bail. It is, therefore, argued that the petition does not deserve to be allowed.

6. This Court has heard learned counsel for the parties at considerable length.

7. The petitioner in connivance with the co-accused is alleged to have caused homicidal death of the victim on the night of 03.11.2021. Trial will take further time to conclude as only 07 prosecution witnesses have been examined so far. The petitioner is in custody for a period of about 04 years, 05 months and 12 days. 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 rights of the accused with the requirements of the criminal justice system. Prolonged detention itself is a ground for reconsideration of bail since the settled principle of law is that detention prior to trial should not become punitive. It is well settled proposition of law that prolonged incarceration generally militates against the most precious fundamental right guaranteed under Article 21 of the

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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 keeping the petitioner in custody anymore. The principle of parity also weighs in favour of the petitioner. Accordingly, the petition is allowed, and the petitioner is ordered to be admitted to bail subject to his furnishing personal as well as surety bonds to the satisfaction of learned trial Court/CJM/Duty Magistrate concerned. However, it will be open for the prosecution to apply for cancellation of bail in case the petitioner is found involved in any other subsequent case and if it appears that it is on account of any act and conduct of the petitioner that further delay is being caused in the conclusion of the trial and further subject to his abiding by the following conditions:-

- (i) The petitioner will not tamper with evidence during trial.
- (ii) he will appear before the trial Court on each and every date fixed, unless is exempted by specific order of the Court.
- (iii) 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 from disclosing such facts to the Court or to any police officer.
- (iv) any infraction shall entail in withdrawal of the benefit granted by this court.

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8. In the eventuality of breach of any of the aforementioned conditions, the respondent-State shall be at liberty to move an application seeking cancellation of the bail.
9. It is made clear that any observation made herein above is only for the purpose of deciding the present petition and the same shall have no bearing on the merits of the case.
10. Since the main petition has already been disposed of, pending application, if any, is rendered infructuous.

[MANISHA BATRA]
JUDGE

17th April, 2026
Parveen Sharma

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