



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

219

CRM-M-22893-2026

Date of decision : 30.04.2026

Date of uploading : 30.04.2026

Birbal

.....Petitioner

Versus

State Of Haryana

.....Respondent

CORAM: HON'BLE MR. JUSTICE SUMEET GOEL

Present: Mr. Suraj Mandhan, 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 FIR No.114 dated 21.03.2025 under Sections 109(1), 3(5), 351(2) of BNS and Sections 25(1)(a), 25(1-B)(c), 25(1B)(C), 25(8), 27(2) of Arms Act, registered at Police Station Pundri District Kaithal.

2. The case set up in the FIR in question (as set out in the present petition by the petitioner) is as follows:-

"To the SHO, It is stated that Urmila, wife of Sh. Vinod Kumar is a resident of village Matrawa Khedi Pundri and she is running Mannat Hair Salon and Beauty Parlour in Brahmand Colony, Pundri with her husband Vinod and brother-in-law Manjeet for about 8/9 years and lives there. About 4/5 years ago, her husband Vinod's uncle's son Birbal, who is her brother-in-law, used to work in their salon. Birbal was caught many times by the police for criminal activities and they had removed Birbal from their shop. After that, Birbal started having a grudge against them and even fought with them many times. Keeping this grudge in mind, today at about 01.30 in the afternoon Birbal came to their salon and came upstairs to her beauty parlor and started beating her. On hearing the noise her brother-in-law Manjit also came upstairs. During this, Birbal took out the



pistol hidden in his pants and shot her with intention to kill her. The bullet hit near her neck. Her brother-in-law Manjit tried to apprehend Birbal but Birbal showed the pistol to her brother-in-law and threatened to kill her and her family and ran away from there with the pistol. Her brother-in-law told her that Eirbal was accompanied by another boy, who was standing with a motorcycle. Birbal ran away with that boy on the motorcycle. After that, her family admitted her to the government hospital, Pundri. Birbal has tried to kill her by making a lethal attack on her. Legal action should be taken against him."

3. Learned counsel for the petitioner has argued that the petitioner is in custody since 26.03.2025. Learned counsel has further argued that the petitioner has been falsely implicated in the FIR in question, as there is a property-related dispute between the petitioner and the victim side. Learned counsel has further submitted that the injured, Urmila, and another key witness, namely Manjit, already stand examined. Learned counsel has further iterated that the petitioner has suffered incarceration for more than 10 months. 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 29.04.2026 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 26.03.2025 wherein after investigation was carried out and challan stands presented on 20.06.2025. Total 24 prosecution witnesses have been cited but only 2 has been examined till date. It is thus indubitable that culmination of trial will take its own time. 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.”

The rival contentions raised by learned counsel 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 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 29.04.2026 filed by learned State counsel, the petitioner has already suffered incarceration for a period of 10 months and 24 days & is shown to be involved in other cases. As per the said custody certificate, the petitioner is stated to be involved in more cases. 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 14.01.2026. Keeping in view the entirety of the factual *milieu* of the case in hand, especially 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/Illaq Magistrate.
- (vii) The petitioner shall not in any manner try to delay the trial.

8. Liberty is reserved in favour of the FIR-complainant/victim to seek recall of this order on showing sufficient cause. The concerned SHO is obligated to move an appropriate application seeking cancellation of the regular bail granted to the petitioner in case the petitioner is found to be involved in any FIR after the grant of bail to the petitioner vide the present order.
9. Ordered accordingly.
10. Nothing said hereinabove shall be construed as an expression of opinion on the merits of the case.
11. Pending application(s), if any, shall also stand disposed of.

30.04.2026

jatin

(SUMEET GOEL)

JUDGE

Whether speaking/reasoned: Yes/No

Whether reportable: Yes/No